

IN THE INCOME TAX APPELLATE TRIBUNAL "A", BENCH KOLKATA
BEFORE SHRI N.V.VASUDEVAN, JM & SHRI M. BALAGANESH, AM

आयकर अपील सं./ITA No.2560/Kol/2013

(निर्धारण वर्ष / Assessment Year :2009-2010)

ACIT, Circle-3, Asansol	Vs.	Shri Rahul Kumar Saraf, 14A, Paper Box Estate, Mahakali Caves Road, Andheri East, Mumbai- 400093
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AXWPS 8240 B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

राजस्व की ओर से /Revenue by : None
निर्धारिती की ओर से /Assessee by : Shri Dilip Loyalka, Advocate
सुनवाई की तारीख / **Date of Hearing** : **13/10/2016**
घोषणा की तारीख/**Date of Pronouncement** **19/10/2016**

आदेश / O R D E R

PER M.BALAGANESH, AM

This appeal of the assessee arises out of the order of Learned CIT(A), Asansol, in Appeal No.307/CIT(A)/Asl/W-3(1)/Asl/11-12, dated 02.09.2013, arising out of the order of assessment framed by the Income Tax Officer, Ward-3(1) Asansol u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. The only issue to decide in this appeal is as to whether the Id. CIT(A) is justified in deleting the addition of Rs.1,19,37,425/- towards cash deposits in bank account u/s.68 of the Act in the facts and circumstances of the case.

3. Brief facts of this issue is that the assessee is a proprietorship concern in the name and style of M/s Geet Govind Global. The assessee is an importer and trader of edible and non-edible oil, chemicals, timber, bleaching and Fuller Earth. Ld. AO found that there was cash deposits in the bank accounts of the assessee for which proper explanation were not

given and accordingly brought the sum of Rs.1,19,37,425/- to tax as unexplained cash credit u/s.68 of the Act.

4. Before the Id. CIT(A) the assessee submitted various details and argued that the said deposits in bank account were duly reflected in the books of accounts regularly maintained by the assessee. Ld. CIT(A) called for remand report from the Id. AO vide proceedings No.CIT(A)/Asl/13-14/10-11, dated 4-4-2013 as below :-

OFFICE OF THE COMMISSIONER OF INCOME TAX (APPEALS), ASANSOL
SAHANA APARTMENT, LOWER CHELIDANGA, ASANSOL-713304
No. C.I.T.(A)/Asl/13-14/10-11 dated : 04.04.2013

To

Income Tax Officer
Ward 3(1), Asansol

Sub. : IT Appeal No. 307/C.I.T.(A)/Asl/ITO/W-3(1)/Asl/2011-12-case
of Shri Rahul Saraf (PAN:AXWPS8240B)-A.Y. 2009-10-reg

Appeal in the above case was heard today. In the course of hearing the appellant submitted a written note with supporting documents. Copy of this is enclosed. You may go through the same and offer your comments paragraph wise.

Further under section 250(4), you are directed to conduct further enquiry as detailed below and report:

- Call for the books of accounts of assessee and examine whether the deposits in Development Credit Bank Ltd and HDFC bank is figuring. If not, specify the entries not figuring and your comments on explanation offered by the assessee.
- Call for combined personal and business Balance Sheet as on 31.3.2009 and personal Fund Flow statement for F.Y. 2008-09, examine and offer your comments specifically with regard to credit card payments and deposit in bank account with Citi Bank.

I also find from the assessment order that the books have been revised. You may also comment on the reliability of the books of accounts produced, specifically on the deficient entries in regard to the impugned matters.

Your report may be sent by 15.5.2013

The Assessment records for A.Y. 2009-10 may also be forwarded along with your report.

Encl: a.a

[A.MOHAN]

Commissioner of Income Tax (Appeals), Asansol.

Copy to: The appellant; with request to offer necessary explanation and/or produce books of accounts and other documents to the Assessing Officer, as and when called for by him.

[A.MOHAN]

Commissioner of Income Tax (Appeals), Asansol.

Ld. AO submitted the remand report vide proceedings No.ACIT/Cir-3/Asl/AXWPS8240B/2013-14/388, dated 8/12-8-2013 as below in respect of impugned addition :-

Addition on account of unexplained cash credit for cash deposit in HDFC & DCB bank A/c [Rs.1,19,37,425/-] – The addition made under this head for unexplained cash deposit in the following bank A/c.-

<i>DCB A/c. No.01921300000268</i>	<i>Rs.82,77,525/-</i>
<i>HDFC A/c.No.06672320000301</i>	<i>Rs.36,59,900/-</i>

Ld. CIT(A) relying on the said remand report and finding that no adverse comments were given by the Id. AO in the said remand report proceeded to delete the addition made.

5. Aggrieved, the revenue is in appeal before us on the following grounds :-

1. That, the Ld. CIT{A}, Asansol has erred in law and on facts by allowing the relief of 'Rs.1,19,37,425/- which was added by the Assessing Officer u/s.68 in respect of cash deposits in the bank A/c.;

2. That, the Ld. CIT{A}, Asansol has erred in law and on facts in deleting the entire addition of Rs.1,19,37,425/- since the verification of the cash deposits in the bank accounts of DCB and HDFC was carried out by the Assessing Officer in remand proceedings with incorrect cash book having various discrepancies as mentioned in the original assessment order dated 26/12/2011;

3. That, the Ld. CIT{A}, Asansol has erred in law and on facts in deleting the entire addition of Rs.1,19,37,425/- as the verification was made by the Assessing Officer during remand proceedings with incorrect cash book and thus the relief given by the CIT{A} is erroneous.

6. None appeared on behalf of the revenue. We find that out of 25 cases listed before the bench today, the revenue has sought adjournment in all the cases. Ld. AR stated that this issue is covered by the remand report submitted by Id. AO who had accepted the contentions of the assessee in the remand proceedings. In these circumstances, the

adjournment petition of the revenue is rejected and we proceed to dispose off the appeal on merits on hearing Id. AR.

7. We have considered the contentions of Id. AR. We find that Id. AO had accepted all the contentions of assessee that entire cash deposits were duly accounted for in the books of accounts of the assessee and, hence, there is no question of adding any amount thereon as unexplained cash credit u/s.68 of the Act. We also found that the Id. AO had not given any adverse comments in the remand report with regard to the contentions of the assessee. We find that the Id. CIT(A) rightly granted relief by placing reliance on the remand report. We hold that the Id. AO having accepted to the contentions of the assessee in the remand report ought not to have preferred any appeal before us. We do not find justifiable reason to inter with the order of Id. CIT(A) in this regard. Accordingly grounds raised by the revenue are dismissed.

8. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on this 19/10/ 2016.

Sd/-
(N.V.VASUDEVAN)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata; दिनांक Dated 19/10/2016

प्रकाश मिश्रा/Prakash Mishra,नि.स/ PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A), Kolkata.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY
ORDER,

उप/सहायक पंजीकार
(Asstt. Registrar)

आयकर अपीलीय अधिकरण, कोलकाता / ITAT, कोलकाता