

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC-1', NEW DELHI**

**Before Sh. N. K. Saini, Accountant Member**

**ITA No. 5913/Del/2014 : Asstt. Year : 2011-12**

Parshotam Dass Dhiman, M/s Danblock Brakers, Village Chauhan Joshi, Bahalgarh Road, Sonapat	Vs	ACIT, Sonapat Circle, Sonapat
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAYPD3195P</b>		

**Assessee by : Sh. K. Sampath, Adv.**

**Revenue by : Sh. A. Sreenivasa Rao, Sr. DR**

<b>Date of Hearing : 30.06.2016</b>	<b>Date of Pronouncement : 06.09.2016</b>
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**ORDER**

This is an appeal by the assessee against the order dated 22.08.2014 of Id. CIT(A), Rohtak.

2. Following grounds have been raised in this appeal:

*“On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in:*

*1. In confirming the following additions-*

*a) Rs.1,02,059/- on account of interest income without taking into consideration the revised return;*

*b) Rs.3,49,000/- on account of alleged low household drawings .*

*c) Rs.70,000/- on account of PPF deposit;*

*2. not deleting but merely setting aside and restoring the matter for verification to the AO the following additions made by him -*

*a) Rs.3,60,000/- on account of conveyance reimbursement*

*b) Rs.8,712/- petty amount Rs.8,607/- on account of disallowance of deduction u/s 80C of the I.T. Act.*

*All the above actions being arbitrary, erroneous and unsustainable in law, it is prayed that the same must be quashed with directions for appropriate relief.”*

3. During the course of hearing the ld. Counsel for the assessee at the very outset stated that he has the instruction not to press ground nos. 1(a) and 2(a) & (b), so these grounds are dismissed as not pressed.

4. Vide Ground No. 1(b), the grievance of the assessee relates to the sustenance of addition of Rs.3,49,000/- made by the AO on account of low household expenses and vide Ground No. 1(c), the assessee is aggrieved against the sustenance of addition of Rs.70,000/- by the AO on account of deposit in PPF account.

5. Facts related to the above issues in brief are that the assessee filed the return of income on 29.07.2011 declaring an income of Rs.12,17,509/-. Later on, the case was selected for scrutiny. During the course of assessment proceedings, the AO noticed that the assessee had made total withdrawal of Rs.11,000/- for household expenses and observed that the assessee vide reply dated 19.08.2013 furnished the

details of family members which revealed that the assessee's son was a student and his wife being house wife had no source of income. The AO estimated the household expenses @ Rs.30,000/- per month i.e. Rs.3,60,000/- per annum. Accordingly, addition of Rs.3,49,000/- was made. The AO also noticed that the assessee deposited Rs.70,000/- in cash on 05.04.2010 in his PPF account but no such withdrawal from his bank account had been made. He, therefore, made the addition of Rs.70,000/- to the taxable income of the assessee.

6. Being aggrieved the assessee carried the matter to the Id. CIT(A) and submitted that the assessee was residing at Sonapat where he worked and his family consisting of wife and only son were residing at their parental hometown at Village Dharampur, Tehsil Kalka, Haryana, which is small kasba in foot hill of Himachal and that the assessee's father-in-law who is a retired railway official was also residing at the same area. It was further stated that the assessee's wife alongwith their son was mostly residing with her father and all kitchen and miscellaneous expenses were met by her father who did not allow his daughter to spend any amount, since she was taking his care in last old age. It was further stated that his son was pursuing B.com from Government College, Kalka and nominal course fee was amounting to Rs.3,000 per annum. It was contended that the assessee was living singly in Sonapat and having his lunch & snacks in the company's canteen, so he also did not spent more than Rs.4000-5000 p.m. for his household

expenses. The assessee submitted the details of the total household expenses as under:

<b><i>Particulars</i></b>	<b><i>Amount(Rs.)</i></b>
<i>Household expenses of Assessee's Family (At Dharampur, Kalka)</i>	48,000.00
<i>Household expense of Assessee at Sonepat</i>	60,000.00
<i>PPF Deposits</i>	70,000.00
<i>Rent Paid</i>	1,44,000.00
<i>Paid to M/s Nagin Chand Navin Kumar</i>	8,712.00
<b><i>Total household expenses (A)</i></b>	<b>3,30,712.00</b>

7. He also explained the source to meet out the aforesaid expenses as per following details:

<i>Opening cash as on 01.04.10(Rs.)</i>	<i>Assessee's mother expired on 23.01.2011 and cash received on death of mother (Rs.) (Copy of Memorandum recording Family Settlement is enclosed)</i>	<i>Cash withdrawal from HUF (Rs.)</i>	<i>Cash withdrawal from Bank (Rs.)</i>	<i>Total sources of cash (Rs.)</i>	<i>Household Exp. (As per detail) (Rs.)</i>	<i>Net cash as on 31.03.11 (Rs.)</i>
75,000	1,25,000	1,45,000*	32,000	3,77,000	3,30,712	46,288

8. The assessee submitted to the Id. CIT(A) that the additions made by the AO were illegal and void for the following reasons:

*“a. In the Para 3 of the Assessment Order, Assessing Officer had given arbitrary statement totally based upon his own imagination that "assessee is living along with his wife and*

*son who is a student" but in reality Assessing Authority has never asked about area of residence of Assessee and his family members and therefore, no statement has been submitted by assessee in this regards during the assessment proceedings.*

*b. If AO had any doubt he could have further inquired into the matter.*

*c. Assessing Authority has ignored the fact that Assessee's spouse along with her son was residing with her old age father and took care of her father and her father didn't allow to spend any amount for household expenses.*

*d. Assessing Officer doesn't bring any evidence or information on file which proves that estimated drawings taken by the AO are adequate and made addition towards inadequate drawings which is bad in law. Reliance has been placed upon Judgment held by ITAT Chennai in case of Jt. Commissioner of Income Tax, Central Circle IV(1) 46, Chennai Versus Shri V. Sampath -2012(12) TMI 638. Copy of Judgment is enclosed herewith.*

*e. Assessing Officer has not made head wise calculation of assessee's drawings along with drawings made by his family members and made addition only on the basis of estimation which is bad in law. It is the duty of AO to bring necessary information on records to make such type of addition for which onus has not been discharged by him. Reliance has been placed on decision held by Income Tax Appellate Tribunal - Mumbai 147 Taxmann 111 (2005) and 21 TTJ 228 (ITAT Allahabad) 1985.*

*f. Addition has been made purely on the basis of guess work and his imagination which is totally unjustified.*

*g. Addition on account of low household expenses on the basis of suspicion and surmises is bad in law and Assessing Officer has not given any cogent reason for estimating the household expenses and made impugned addition which may kindly be deleted. Reliance has been placed on decision held by Income Tax Appellate Tribunal-Delhi 94 TTJ 1071 in case of Bajrang Lal Bansal Vs Deputy Commissioner of Income Tax.*

*h. Assessing Officer has made estimated addition on the basis status of assessee which is totally unjustified. Reliance has been placed on Judgment held by ITAT Allahabad Bench in case of Raj Kumar Jain Vs. ACIT 4TTJ 558(1994) in which it has already been held that "Addition on account of household expenses cannot be made on the basis of appellant financial status/class". Copy of Judgment is enclosed herewith.*

*i. That total cash withdrawal from bank by assessee during the year is amounting to Rs. 32000.00 instead of Rs. 11,000.00 mentioned in the Para 3 of the order passed by the AO.*

*Further, It is certainly not a leap in the dark. The Assessing Officer is not entitled to make a guess without evidence. An assessment based on mere conjecture, surmise or suspicion or irrelevant and inadmissible evidence and material is in valid and unsustainable in law.*

*Hence, the unjustified addition may kindly be deleted."*

9. The Id. CIT(A) after considering the submissions of the assessee sustained the addition by observing as under:

*"The submissions made by the appellant and the AO's report dated 14.7.2014 reveal that the assessee had in his letter dated*

*19.8.2013 to the AO submitted that his wife was a house wife and son a student, both having no sources of income. The AO has also pointed out that Rs 70,000/- was deposited in the appellant's PPF account and no withdrawal was made from the bank account. The appellant has before me stated that the appellant stayed alone while his wife and son stayed with his father-in-law a retired Railway official and expenses were taken care by him. His own expenses did not exceed Rs 4,000/- to Rs 5,000/- p.m. for his household expenses. What is extraordinary is the fact that all these explanations were not preferred to the AO during the assessment proceedings. In fact in the details of cash flow received during the year, it is seen that the appellant received Rs1,25,000/- in a family settlement dated 28.01.2011 following his mother's demise on 23.01.2011. This amount has been received at the fag end of the financial year and the MOU is merely a sheet of paper without a stamp or attestation by any witness pr notarized. Hence, it's legal sanctity is suspect. The withdrawal from the HUF has not been corroborated with evidence. Therefore, the appellant has failed to explain his low withdrawal and the AO has made the addition correctly. This addition is confirmed and the ground of appeal is dismissed.”*

10. Now the assessee is in appeal. The ld. Counsel for the assessee reiterated the submissions made before the authorities below and further submitted that the assessee was having the sufficient cash to meet out the household expenses and in making the deposit to his PPF account. Therefore, the addition made by the AO and sustained by the ld. CIT(A) was not justified.

11. In his rival submissions the Id. DR reiterated the observations made by the AO and the Id. CIT(A) strongly supported the impugned order passed by the Id. CIT(A).

12. I have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case, the contention of the assessee that his wife alongwith his son was residing with his father-in-law who was a retired railway official and spending the money for household expenses has not been rebutted. The assessee also explained that his son was pursuing B.com from Government College, Kalka and nominal course fee was amounting to Rs.3,000 p.a. The assessee had shown the household expenses in his wife and son at Rs.48,000/- which appears to be reasonable because the other expenses relating to kitchen and miscellaneous expenses were met out by her father who was a retired railway officer. The assessee was living alone at his work place in Sonapat and was getting the breakfast and lunch from the canteen of the company where he was working. Therefore, the expenses amounting to Rs.60,000/- for his household needs appear to be reasonable. The assessee also explained before the Id. CIT(A) that a rent of Rs.1,44,000/- was paid and an amount of Rs.70,000/- was deposited in his PPF account. Another sum of Rs.8,712/- was paid to M/s Navin Chand Navin Kumar. In this manner, total household expenses were shown at Rs.3,30,712/-. The assessee also explained the total funds amounting to Rs.3,77,000/- were available with



him, therefore, the addition made by the AO and sustained by the Id. CIT(A) on account of household expenses and deposit in PPF account was not justified. Accordingly, the same is deleted.

13. In the result, the appeal filed by the assessee is partly allowed.  
(Order Pronounced in the Court on 06/09/2016)

**Sd/-**  
**(N. K. Saini)**  
**ACCOUNTANT MEMBER**

**Dated: 06/09/2016**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**