

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'A' NEW DELHI

BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

ITA No.- 1592 to 1596 /Del/ 2020
(Assessment Year: 2014-15 to 2018-19)

Sh. Ashite Kumar Singh,
136, passport, 1,
Budhanpur,
Gazipur, UP-275203

Vs. ACIT,
Central circle-6,
New Delhi

PAN No. FUQPS5133H
Appellant

Respondent

Assessee by Sh. VK Jindal, CA
Revenue by Sh. Satpal Gulati, CIT-DR

Date of hearing: 8/6/2021
Pronouncement on 8/6/2021

ORDER

PER K. NARASIMHA CHARY, JM

Aggrieved by the orders dated 20/08/2020 ~~passed~~ by the learned Commissioner of Income Tax (Appeals)-24, New Delhi ("Ld. CIT(A)") in the case of Sh. Ashite Kumar Singh ("the assessee"), for the assessment years 2014-15 to 2018-19 confirming the additions made by the learned Assessing Officer for those years, assessee preferred these

appeals on identical grounds, and for a similar reason we find it just and convenient to dispose of by way of this common order.

2. Brief facts of the case are that the assessee is an individual, and derives income under the head Salary. He works as an accountant in Sugandhi Snuff King (P) Ltd. Assessee did not file his returns of income since the income of the assessee was below the taxable limit. There was a Search and Seizure action u/s 132 of the Income Tax Act, 1961 (for short "the Act") carried out at the residential premises of the assessee on 31.01.2018. In response to the notice u/s 153A of the Act, the assessee filed returns declaring income at Rs.1,30,000/- for the assessment year 2014-15; Rs. 1, 95, 100/-for the assessment year 2015-16; Rs. 1, 95, 150/-for the assessment year 2016-17; Rs. 1, 65, 420/-for the assessment year 2017-18; and Rs. 2, 08, 750/-for the assessment year 2018-19 on various dates. During the course of assessment proceedings assessing officer noted that the salary income of the assessee was Rs. 1.3 Lacs, 1.95 Lacs, 1.95 Lacs, 1.95 Lacs and 2.6 Lacs for the assessment years 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19 respectively whereas the cash deposits for those years respectively were Rs. 1, 99, 200/-, Rs. 5, 59, 360/-, Rs. 4, 06, 800/-, Rs. 4, 16, 200/- and Rs. 3, 76, 900/-. Learned Assessing Officer, accordingly, treated the difference between the total cash deposits and salary income as the unexplained money of the assessee and added the respective sums, namely, Rs. 69, 200/-, Rs. 3, 64, 360/-, Rs. 2, 11, 800/-, 2, 21, 200/-and Rs. 1, 16, 900/-to the income of the assessee for such years, under section 69A of the Act.

3. Aggrieved by such an action of the learned Assessing Officer,

assessee preferred appeals before the Ld. CIT(A) but the Ld. CIT(A) holding that without borrowing or having opening cash balance, there is no way of the assessee explaining the difference between the deposits and his salary income and while considering the household expenses the learned Assessing Officer was justified in making the addition of the amount which was equivalent to the difference in the deposited amount and the salary earnings of the assessee, confirmed the additions made by the learned Assessing Officer and dismissed the appeals.

4. Assessee is, therefore, before us in these appeals challenging the orders of the authorities below in making and sustaining the additions under section 69 of the Act basing on the conjectures on surmises. According to the assessee sufficient cash balances were available with him and the unutilised portions thereof were deposited in the next year and therefore, in the absence of any evidence to show that no cash balance was available with the assessee for making subsequent deposits, the authorities below are not justified in sustaining the additions.

5. Ld. AR invited our attention to the Balance Sheet prepared for the years ending with 31/3/2012, 31/3/2013 and so on and so forth to justify the contention of the assessee that so much of cash was available with the assessee at the end of each year and depending upon the non-utilisation of the amounts, certain amounts were deposited back into the accounts; whereas, per contra, Ld. DR submitted that this strange fact available in this case is that there is no much rise in the salary of the assessee, but there was a geometrical rise in the expenses as well as

savings of the assessee. He submitted that for the assessment year 2012-13 the savings of the assessee were 40% whereas it was not so for the subsequent years. He, therefore, submitted that the authorities below are justified in making the addition basing on the excess of deposits over the earnings of the assessee inasmuch as the assessee does not plead any other source of income or any other source for such deposits.

6. We have gone through the record in the light of the submissions made on either side. It could be seen from the Balance Sheet available on record, which according to the assessee submitted before the authorities also, there was a cash on hand to the tune of Rs. 9, 38, 420/- as on 31/3/2012, and Rs. 9, 86, 520/- as on 31/3/2013. Insofar as this cash balances are concerned, it goes undisputed that for the assessment years 2012-13 and 2013-14 the assessing officer accepted the same without raising an eye brow and such cash on hand as on 31/3/2012 and 31/3/2013 remains unchallenged and attained finality. This cash balance at the end of each financial year of 2012-13 and 2013-14 is relied upon by the assessee to explain the deposits made during the subsequent years. It could be seen from the orders of the authorities below that in no year, the deposits exceed Rs. 5.6 Lacs. Even according to the Ld. CIT(A) the personal expenses of the assessee in any of these years will not exceed Rs. 6000/- to Rs. 8000/-per month. It is not the case of the Revenue that the assessee had to spend the cash on hand available at the end of each year for any entrepreneur purposes, and the consistent plea taken by the Revenue is that the salary is the only source of income for the assessee.

7. The Balance Sheet for the successive years clearly establish that the assessee had the cash on hand to the tune of Rs. 9, 80, 920/-as on 31/3/2014; Rs. 7, 45, 560/-as on 31/3/2015; Rs. 4, 46, 260/-as on 31/3/2016; Rs. 2, 46, 860/-as on 31/3/2017 and Rs. 21, 619/-as on 31/3/2018. On this cash balances available with the assessee at the end of each year, in the absence of any contention or evidence to the contrary, ordinarily justify the plea taken by the assessee that as and when the purposes frustrated, certain amounts were deposited in the bank account which are taken into account by the learned Assessing Officer on the surmises that it is unexplained cash deposit. When huge cash is available in the hands of the assessee at the end of the financial year 2011-12 and 2012-13 and such cash balance was accepted by the learned Assessing Officer, therefore, in the absence of any material available with the learned Assessing Officer, he cannot say that no cash was available with the assessee for the alleged deposits in the subsequent assessment years. In these circumstances, we are of the considered opinion that there is proper and satisfactory explanation from the assessee in respect of the cash deposits and when the Revenue wants to bring such cash deposits to tax, the burden squarely rests with the Revenue and in the absence of any material in support of such a premise, we find it difficult to accept the reasoning of the learned Assessing Officer to make the addition and for that matter, the reasoning for confirming the addition by the Ld. CIT(A). Ld. CIT(A) when recorded that without borrowing or having opening cash balance, there is no way the cash deposits for the respective years can be explained through salary and by the assessee, missed the aspect of the assessee holding sufficient opening balance for the respective years. With this

view of the matter we find it difficult to sustain the impugned orders. We, accordingly, while allowing these appeals direct the learned Assessing Officer to delete the additions made for the respective years.

8. In the result, appeals of the assessee are allowed.

Order pronounced in the open court on this the 8th day of June, 2021 immediately after conclusion of the hearing through virtual court.

Sd/-

(R.K.Panda)
ACCOUNTANT MEMBER
Dated: 8/6/2021

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

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

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ASSISTANT REGISTRAR
ITAT NEW DELHI