

IN THE HIGH COURT OF DELHI AT New Delhi

06.07.2009

Present: Mr. Sanjeev Sabharwal with Mr. Mohan Prasad Gupta, Advocates for the appellant.

Mr. Manish Sharma, Advocate with Mr. Vishal Malhotra and Mr. Rohan Singh, Advocates for the respondent.

ITA No.1277/2008. SANJAY RAJ SUBBA

During the search operation carried out by the revenue at the assessee's premises at Subba Farm, 118 HS Village, Mehrauli, New Delhi, cash of Rs.22,20,000/- was recovered. In the income tax return filed by the assessee, the assessee explained the source of this cash. The Assessing Officer, however, made addition of Rs. 24,20,000/- as undisclosed income under Section 69 of the Income Tax Act on the aforesaid account. In the appeal filed by the assessee before the CIT (Appeals) the CIT (Appeals) recorded that the explanation furnished by the assessee was that the following persons/entities gave the below Stated amounts to the assessee:

a. M.S. Associated	Rs.9,00,000
b. Jyoti and Co.	Rs.9,00,000
c. Archana Associates	Rs.2,00,000
d. Self i.e. S.R.Subba	Rs.4,20,000

Total Rs.24,20,000

In support of this the assessee had also provided the copies of bank accounts showing withdrawal of the cash amounts to substantiate his claim as per the following details:

- a. Copy of bank statement of M/s M.S. Associates indicating withdrawal of cash of Rs.9, 00,000/- on 14.6.1999.**
- b. Copy of bank statement of M/s. Jyoti and Co. indicating withdrawal of cash of Rs.9, 00,000/- on 14.6.1999.**
- c. Copy of bank statement of Ms Archana Associates indicating withdrawal of cash of Rs.2,00,000/- on 14.6.1999.**
- d. Copy of cash amount of the appellant for F.Y. ending 31.3.2000 indicating cash in hand of**

Rs.4, 41,965/- on the date of search i.e. 23.6.1999.

On the aforesaid basis, finding was arrived at by CIT (Appeals) that the assessee has been able to give satisfactory explanation of the aforesaid cash of Rs.22,20,000/- lying with it. The I.T.A.T. in the appeal filed by the revenue has affirmed the aforesaid order of the CIT (Appeals). Thus, the concurrent findings are recorded by the two authorities below that the assessee has been able to duly explain the source of the cash amount recovered from him. It is also recorded that the aforesaid firms who had given the money to the assessee are the associate concerns of the assessee. Relevant discussion in this behalf contained in the impugned order of I.T. A.T. runs as under:

We have considered the rival contentions carefully gone through the orders of the lower authorities and found from the record that the cash found during the course of search was duly explained by the assessee as belonging to its various firms/companies and cash in the hands of firms/companies were duly explained as having been withdrawn from their bank accounts. The Assessing Officer has no objection regarding availability of cash in the hands of associate concerns of the assessee, his basic objection was only to the effect that assessee was not related to those concerns and did not know the purpose for which cash was withdrawn. As per finding recorded by CIT (Appeals), all the concerns in whose hands cash was explained belonged to the assessee. Merely because the assessee was not knowing the purpose for which the cash was withdrawn from their bank accounts which was found during the course of search cannot be made the reasons when such cash was duly explained by documentary evidences. The finding recorded by the CIT (Appeals) at para 4.4 has not been controverted by the learned DR by bringing any material on record. We are, therefore, inclined to agree with the learned AR that order of the Assessing Officer is devoid of any merit and assessee has duly explained the availability of cash as found during the course of search, accordingly, no interference is required in the order of CIT (Appeals) deleting the said addition made by the Assessing Officer under sec. 69A of the Act.

These are the concurrent findings of the facts. We are, therefore, of the opinion that no question of law arises in the present case. We may for the sake of completeness note that the argument of the learned counsel for the appellant that even if the aforesaid cash transactions are explained by the assessee, they would be contrary to the provision of Section 269 SS and Section 269 T of the Income Tax Act, and, with which we do not agree.

We do not find any merit and therefore, dismiss the appeal.

A.K.SIKRI,J