आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्री एन के चौधरी,न्यायिक सदस्य एवं श्री डि.एस.सुन्दर सिंह, लेखा सदस्य के समक्ष
BEFORE SHRI N.K.CHOUDHRY, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं**./I.T.A.No.541/Viz/2019**
(निर्धारण वर्ष**/Assessment Year:2010-11)**

M/s J.K.Gardens Jawaharlal Nehru Road Rajamahendravaram	Vs.	Income Tax Officer Ward-2 Rajamahendravaram
[PAN : ABUPM6989K]		
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by	:	Shri G.V.N.Hari, AR
प्रत्यार्थी की ओर से / Respondent by	:	Smt. Suman Malik, DR
सुनवाई की तारीख / Date of Hearing	:	04.03.2021
घोषणा की तारीख/Date of Pronouncement	:	10.03.2021

आदेश /O R D E R

Per D.S.Sunder Singh, Accountant Member :

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)], Rajamahendravaram in Appeal No.10222/2013-14 dated 07.06.2019 for the Assessment Year (A.Y.) 2010-11.

2. All the grounds of appeal are related to sustaining the addition of Rs.1,30,652/- representing negative cash balances. Brief facts of the case are that the assessee is running a function hall and filed it's return of income for the A.Y.2010-11 on 23.07.2010 declaring total income of Rs.1,86,720/-. A survey u/s 133A was conducted in the case of the assessee and subsequently, the case was selected for scrutiny. During the course of scrutiny proceedings, the Assessing Officer (AO) found the negative cash balances for the period from 01.04.2009 to 31.03.2010, in the cash book as under :

14.05.2009	-	Rs.60,270
20.05.2009	-	Rs.78,583
01.07.2009	-	Rs.42,866
12.03.2010	-	Rs. 9203

The AO asked the assessee as to why the aggregate negative cash balances should not be brought to tax. The assessee requested the AO to consider peak of the negative cash balance for addition instead of making the addition of aggregate amount of negative balances. The AO considered the assessee's explanation and taken the peak credit of Rs.78,583/- for the negative balance as on 14.05.2009 and 20.05.2009 and separately made the additions of Rs.42,866/- and Rs.9,203/- for negative balances on 01.07.2009&12.03.2010 aggregating to Rs.1,30,652/- to the returned income. The AO viewed that the negative cash balances appearing on 01.07.2009 and 12.03.2010 are to be considered independently.

3. Against the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) confirmed the addition made by the AO and dismissed the appeal of the assessee. The Ld.CIT(A) found that there were no large number of credit and debit entries and there was no serial order that the credit following debit and also there was no fresh negative cash balances as contended by the AR. Therefore, rejected the theory of peak credit in assessee's case.

4. Against the order of the CIT(A), the assessee preferred appeal before this Tribunal. During the appeal hearing, the Ld.AR submitted that the assessee is having negative balances in cash book as on 14.05.2009, 20.05.2009, 01.07.2009 and 12.03.2010 amounting to Rs.60,270/-, Rs.78,583/- Rs.42,866/- and Rs.9,203/- respectively. The peak negative cash balance was Rs.78,583/- and there were certain entries of payments and receipts in between the dates and hence, negative cash balance was reduced to Rs.42,866/- on 01.07.2009 and Rs.9,203/- as on 12.03.2010 and

thus argued that the source of negative cash balance of Rs.78,583/- would meet the negative cash balances of the remaining dates. Therefore requested to give telescopic benefit and delete the addition of Rs.52,069/- related negative cash balance as on 01.07.2009 and 12.03.2010.

5. On the other hand, the Ld.DR supported the orders of the lower authorities.

6. We have heard both the parties and perused the material placed on record. In the instant case, the AO made the addition of Rs.1,30,652/- representing negative cash balances. The details of negative cash balances in the cash book are as under :

14.05.2009	-	Rs.60,270	
20.05.2009	-	Rs.78,583	
01.07.2009	-	Rs.42,866	Rs.1,30,652/- added by AO
12.03.2010	-	Rs. 9203	

The peak negative of the above was Rs.78,853/- and subsequently it was reduced to Rs.9203/- and thus, the source of peak negative balance Rs.78,583/- would meet the remaining dates negative cash balances. The AO ought to have prepared the cash flow statement and made the addition of peak balance, instead he straight away added the negative cash balances of each day, which is incorrect. As observed from the assessment order, we are of the view that the addition of Rs.78,583/- would meet the deficit cash balance in the remaining days, therefore, no separate addition is warranted for the deficit cash balances as on 01.07.2009 and 12.03.2010. Thus, we set aside the order of the Ld.CIT(A) and delete the addition of Rs.52,069/- representing the deficit cash balance as on 01.07.2009 and 12.03.2010 and confirm the addition of Rs.78,583/-. Accordingly, the appeal of the assessee is partly allowed.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 10th March, 2021.

Sd/-	Sd/-
(एन के चौधरी)	**(डि.एस .सुन्दर सिंह)**
(N.K.CHOUDHRY)	**(D.S.SUNDER SINGH)**
न्यायिक सदस्य/ JUDICIAL MEMBER	**लेखा सदस्य/ACCOUNTANT MEMBER**

Dated : 10.03.2021
L.Rama, SPS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–M/s J.K.Gardens, Jawaharlal Nehru Road, Rajamahendravaram
2. राजस्व/The Revenue –Income Tax Officer, Ward-2, Rajamahendravaram
3. The Pr.Commissioner of Income Tax, Rajamahendravaram
4. The Commissioner of Income Tax (Appeals), Rajamahendravaram
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam