

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'बी' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 3132/Ahd/2011
Assessment Year : 2001-02

Cama Hotels Ltd, Khanpur, Ahmedabad PAN : AABCC 5437 G	Vs	Dy. Commissioner of Income- tax (OSD)-I, Ahmedabad
--	----	--

अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
------------------------	--	--------------------------

Assessee(s) by :	Shri M.J. Shah, AR
Revenue by :	Shri Narendra Singh, Sr. DR.

सुनवाई की तारीख/Date of Hearing : 03/11/2015

घोषणा की तारीख /Date of Pronouncement: 20/11/2015

आदेश/O R D E R

PER SHRI KUL BHARAT, JUDICIAL MEMBER:-

This appeal by the assessee is directed against the order of the Commissioner of Income-tax (Appeals)-6, Ahmedabad dated 04.10.2011 for Assessment Year 2001-02.

2. The solitary ground raised by the assessee reads as under:-

"That the C.T.T (Appeals) erred in confirming the addition of Rs.200000 u/s 68 of the I.T. Act in respect of the two deposits of Rs.100000 each accepted from Rohit Maru and Utpal Maru though the same were received by the account payee cheques and the same were supported by the confirmations and P.A. numbers and the same were also repaid later on by account payee cheques and the interest paid to the depositors was allowed as a deduction and the Honourable ITAT had in the first round of appeal held that the appellant had prima facie discharged its onus to prove the genuineness of the deposit."

3. Briefly stated facts are that this is the second round of litigation. In the earlier round, the assessee had challenged the addition of Rs.2,00,000/- made u/s 68 of the Act while the disallowance has been confirmed by the

CIT(A). In the earlier round, this Tribunal vide its order dated 27.02.2009 in ITA No.3865/Ahd/2004 had restored the issue back to the file of the Assessing Officer for decision afresh. The Assessing Officer in pursuance of the directions of the Tribunal yet again confirmed the addition on the ground that the assessee did not furnish the current address of the depositors. The addition so made was confirmed by the Id. CIT(A). Now the assessee is further in appeal before us.

4. The Id. Counsel for the assessee submitted that the authorities below were not justified in making addition and confirming the same. He submitted that the action of the authorities below is contrary to the settled law. Id. Counsel further submitted that the assessee-company had accepted the deposits, apart from others, from one Mr. Rohit Maru and Mr. Utpal Maru of Rs.1,00,000/- each as fixed deposit. He submitted that on maturity of the fixed deposit the amount was repaid to the concerned parties. He further submitted that the deposits were accepted by way of account payee cheque No. 390825 dated 26.11.2000 of Rs. 1,00,000/- drawn on Central Bank of India, Mithakhali Branch, Ahmedabad from Mr. Rohit Maru and a similar amount of cheque No.290824 dated 26.11.2000 drawn on Central Bank of India, Mithakhali Branch, Ahmedabad from Mr. Utpal Maru. He submitted that the Permanent Account Numbers (PAN) of both the parties were given. He drew our attention to page No. 32 of the paper-book in this regard, wherein the PAN of Shri Rohit I. Maru and Utpal R. Maru is given and both of them are stated to be assessed at ITO 23(1), Mumbai and ITO 46(1), New Delhi respectively. The Id. Counsel submitted that under these facts the Assessing Officer ought not to have made addition without making enquiry from the concerned parties. In support of his contention, the Id. Counsel placed reliance on the judgment of the

Hon'ble Gujarat High Court in the case of CIT vs. Ayachi Chandrashekhar Narsangji, reported in [2014] 42 taxmann.com 251 (Guj.).

5. On the contrary, ld. Departmental Representative has supported the orders of the authorities below and submitted that the Assessing Officer has called for certain details in order to verify the genuineness of the transactions and creditworthiness of the depositors; but the assessee failed to furnish the same. Therefore, the authorities below were justified in sustaining the addition.

6. We have heard the rival contentions and perused the material on record. There is no dispute with regard to the fact that the transactions have been routed through the banking channel. The assessee has furnished Permanent Account Numbers (PAN) of the concerned parties. The Assessing Officer did not accept the explanation given by the assessee on the ground that the assessee failed to furnish the current address of the concerned depositors and also the notices could not be served as per the Inspector's Report. It was stated that the concerned parties did not reside on the given address for the last 4-5 years. We find that at page No.30 of the paper-book the assessee has furnished the ledger account of the depositors. As per this, the depositors' deposits were accepted on 27.11.2000. As per the application form for fixed deposit, which is placed on record at page No.28 of the paper-book, the period of deposit was for 12 months, starting from 26.11.2000 and the same was required to be repaid before November 2001. As per Inspector's Report, the concerned depositors were not residing at the given address for 4-5 years from the date of making inquiry, i.e., in the year 2010. Therefore, in our considered view, when the assessee had furnished the PAN of the concerned depositors, the Assessing Officer ought to have made inquiry from the jurisdictional Assessing

4

Officers to find out the current address of the depositors. Therefore, after considering the totality of the facts and more particularly under the facts of the present case, the Assessing Officer was not justified in making the addition. Hence, we hereby direct the Assessing Officer to delete the addition.

7. In the result, the assessee's appeal is allowed.

Order pronounced in the Court on 20th November, 2015 at Ahmedabad.

Sd/-

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

(KUL BHARAT)
JUDICIAL MEMBER

Ahmedabad; Dated 20/11/2015

By T.

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

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

आदेशानुसार/ BY ORDER,

TRUE COPY

उप/सहायक पंजीकार (Dy./ Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad