

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC ": NEW DELHI
BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K.N.CHARY, JUDICIAL MEMBER

ITA No. 3004/Del/2018
(Assessment Year: 2013-14)

Desh Raj Arora, Prop Diamond Tools (India), 477/14, 2 nd Floor, Aggarwal Market, Ajmeri Gate, Delhi PAN: AAJPD5692A	Vs.	ITO, Ward-46(1), New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri S. P. Gogia, Adv
Revenue by:	Ms. Rakhi Vimal, Sr. DR
Date of Hearing	14/10/2019
Date of pronouncement	14/10/2019

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee, who is an individual carrying on the business of trading of tools and hardware etc, against the order of the Commissioner Of Income Tax (Appeals) – 16, New Delhi wherein the additions made by the learned Assessing Officer in assessment u/s 143 (3) of The Income Tax Act 1961 passed on 29/2/2016 were confirmed.
2. The assessee filed his return of income declaring total income of INR 581350/- on 30/9/2013 which was assessed by the learned assessing officer u/s 143 (3) of the income tax act on 29/2/2016 at INR 804530/-making certain additions/disallowances. The assessee preferred appeal before the learned CIT(A), who confirmed the order of the learned assessing officer and therefore assessee is in appeal before us.
3. We have heard the rival contentions and perused the orders of the lower authorities. Each of the above disallowances/additions contested by the assessee is dealt with here under.
4. The first issue involved in this appeal is the disallowance of depreciation of INR 65522/- on the car purchased by the assessee as per as per para

number 2 of the order. The assessee purchased the car for INR 436816/- in his personal name. The payment of the purchase of the car was also made from the personal account. Therefore the learned assessing officer took a view that assessee has used this car for his personal purposes and therefore the depreciation of INR 65522/- on purchase of the new car was disallowed. He further noted that assessee has not debited the expenses related to the car in the profit and loss account and therefore it is used for the personal purposes and not for the purposes of the business. The assessee preferred appeal before the learned CIT(A) against the above disallowance who confirmed the addition. In fact, assessee is a proprietor of M/s Diamond Tool (India) carrying on the trading of hardware and tools. As assessee is an individual so naturally the assessee will purchase the car in his own name only. Therefore, we do not find any reason that assessee should not be allowed depreciation on the car, which is used for the purposes of his business. Merely because assessee has made payment for purchase of car from his personal account does not mean that it is not the business asset of the assessee. Further as the learned assessing officer has not found any expenditure debited to the profit and loss account, but it cannot be said that depreciation on the asset is not allowable to the assessee. The assessee is owning an asset, which is used for the purposes of the business of the assessee. The learned assessing officer has presumed that assessee is not using motor car for his business purposes, which cannot be the basis of disallowance of depreciation. Accordingly we direct the learned assessing officer to delete the disallowance of depreciation of INR 65522/-. Accordingly, the 1st disallowance made by the learned assessing officer is deleted.

5. The 2nd issue involved in this appeal is addition of INR 90,000 being cash deposited in savings bank account of the appellant. The appellant has explained before the learned assessing officer that as assessee has sold his old car and has purchased the new car, the old car was sold for INR 90,000 and such cash was deposited in the savings bank account of the appellant. The assessee also produced two cash receipts of INR 45000 each against the

sale of the old car. This evidence was also submitted before the learned CIT(A) however as the assessee has not made any application under rule 46A for admission of the additional evidence the learned CIT(A) did not admit it and confirmed the addition made by the learned assessing officer. We have carefully considered the rival contention and found that assessee has sold his old car for INR 90,000 and has also shown two cash receipts of INR 45,000/- each against the sale of old car and therefore the addition made by the lower authorities deserves to be deleted. Merely because the assessee has not made any application under rule 46A for admission of the additional evidence the learned CIT(A) has not considered the above evidence and confirmed the disallowance. We do not find the confirmation of the above addition by the learned CIT(A) in accordance with the law. Therefore we direct the learned assessing officer to delete the above addition.

6. The 3rd edition is with respect to low household withdrawal of the assessee. The above addition has been made by the learned assessing officer noting that assessee has shown total drawing of INR 190,000/- for the year under assessment. From the perusal of the balance sheet of the assessee the assessee was asked to give the justification for the low withdrawal. The assessee has stated that its family tree consist of himself and his wife and 2 independent children having their own income. However the learned assessing officer made the addition of INR 50,000/- holding that personal and household expenses are INR 20,000/ month amounting to INR 240,000 per Annum. The learned CIT(A) also confirmed the same. We have carefully perused reasons for the addition. We find that appellant's family consists of 4 persons wherein the children's are independent. Therefore the assessee has to bear the expenditure of self and his wife. For this purpose the assessee has shown the total withdrawal of INR 190,000 per annum. Before the learned assessing officer as well as before the learned CIT(A) assessee has stated that he is residing in a colony where the cost of livelihood is less. However, the lower authorities have confirmed the above addition. We do not find any reason to sustain the above addition because of the reason that no expenditure was found to have been incurred by the assessee outside the

books of accounts. In view of this, we direct the learned assessing officer to delete the addition of INR 50,000 because of low also withdrawal.

7. In view of this appeal filed by the assessee is allowed.

Order pronounced in the open court on 14/10/2019.

-Sd/-
(K.N.CHARY)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: /10/2019

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi