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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 05.04.2018

+ ITA 815/2017

VIDIT JAIN

..... Appellant

Through: Mr. Ved Jain, Mr. Pranjal Srivastava
and Ms. Devina Sharma, Advocates.

versus

INCOME TAX OFFICER

..... Respondent

Through: Mr. Zoheb Hossain, Sr. Standing
Counsel and Mr. Deepak Anand, Jr. Standing
Counsel for Revenue.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

S. RAVINDRA BHAT, J.

1. This is an assessee's appeal under Section 260A of the Income Tax Act, 1961 ("the Act") complaining that the Income Tax Appellate Tribunal's order (ITAT's order) is perverse and unreasonable.

2. The assessee filed his return of income declaring total income of ₹6,92,424/- consisting of salary, rental, interest and dividend income. Notice under Section 143(2) with questionnaire was issued. During the course of assessment proceedings, the assessee was called to submit the details regarding cash deposited by the assessee in his bank accounts. In response, the assessee submitted that cash deposited in the bank account represents

redeposit of the cash withdrawn from the bank account; it was also explained that there was a payment from the tenants in the form of rent and security and the opening cash in hand brought forward from preceding financial year, which was the source of such cash deposits. He also explained that he had received cash gift of aggregating ₹7,70,000/- from his in-laws on the occasion of birth of his first son. In support of its contention, the assessee furnished the cash flow statement giving the date wise deposit and withdrawal in the banks accounts and evidences in support thereof. The AO did not accept this explanation and added the aggregate of the credit side of the cash deposit of ₹37,87,690/- under Section 68 of the Act as unexplained credit. The assessment accordingly was completed on an income of ₹42,79,260/- (as against returned income ₹6,92,424/-). Aggrieved, the assessee appealed to the CIT(A). The CIT(A) partly allowed the appeal of the assessee accepting his contention with regard to opening balance of cash in hand of ₹2,15,454/- and granting relief up to that extent. However the CIT(A) confirmed the action of the AO in making addition of aggregate of the cash deposit in the bank account ignoring the cash withdrawal from the bank. The further appeal by the assessee, to the ITAT, however, was unsuccessful.

3. Mr. Ved Jain, learned counsel submitted that the addition of ₹30,72,236/- consists of aggregate of all cash deposits made by the assessee during the year under consideration in the bank account with Punjab National Bank. A detailed cash chart was furnished by the assessee where the source of these cash deposits were fully explained and throughout the year the assessee had positive cash balance before the deposit in the bank

account. Every entry in the cash flow statement submitted by the assessee was supported by bank statements submitted by him. The assessee had an opening cash in hand of ₹2,15,454/-. The assessee had withdrawn the total sum of ₹25,75,311/- cash during the year. As against the above, the assessee had deposited a total sum of ₹27,42,490/- in the bank account during the year. Thus the deposits in the bank account were out of withdrawals made in cash from the account. A sum of ₹7,70,000 was deposited being the gift received in cash from in-laws. With regard to this cash gift (of ₹ 7,70,000/- counsel submitted that it was received on 10.03.2010, from his in-laws on the occasion of birth of his first son on 01.03.2010. Further the assessee had submitted evidence to prove the creditworthiness of the donors such as affidavit of the Sh. Subhash Chandra Sanghai, father-in-law of the assessee wherein he has explained the detailed background of the gifts and the circumstances under which gifts were made by him and his close family members, the occasion of gifts etc. Besides the affidavit, he has also provided various documents explaining the financial worth of the family in the form of balance sheet of the company where the family has the controlling and exclusive interest. However, ignoring these contentions and without appreciating the assessee's evidence, the ITAT upheld the order of CIT(A). Since it failed to take cognizance of the evidence and materials filed by the assessee, urged counsel, its findings are perverse.

4. At the outset, this court notices that the assessee's submissions with respect to the additions made under Section 68 were urged consistently before all revenue authorities; equally consistently, the revenue authorities rejected this explanation, with the exception of the CIT (A) who granted

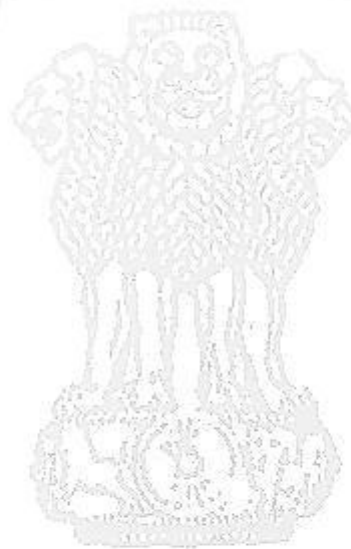
relief on a small aspect. This court is of the opinion that the findings impugned are entirely factual and fall within the exclusive domain of the revenue adjudicating and appellate authorities.

5. For the foregoing reasons, the Court is of the opinion that no substantial question of law arises in this appeal. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 05, 2018



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