IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No. 57 of 2015

Amit Kumar Motwani .... ***Appellant***

Mr. R.P. Kar, Advocate

-versus-

I.T.O. Ward-2(3), Bhubaneswar and others .... ***Respondents***

Mr. T.K. Satapathy, Senior Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

Order No.

ORDER
04.03.2022

08. 1. The present appeal by the Assessee is directed against an order dated 26th May, 2015 passed by the Income Tax Appellate Tribunal Cuttack Bench, Cuttack (ITAT) in ITA No.473/CTK/2013 for the Assessment Year (AY) 2008-09.

2. The question considered by the ITAT was whether the Assessing Officer (AO) was justified in treating a deposit of Rs.15,69,530/- in the account of the Assessee, a salaried employee of the ICICI Bank, as his income on the ground that the Assessee was not able to satisfactorily explain the circumstances of such deposit.

3. The return filed by the Assessee for the AY in question was picked up for scrutiny. The Assessee offered an explanation that the deposits in the sum of Rs.15,69,530/- in his account were made by the Assessee's friend, one Mr. Shaikh Tahir, a businessman. Mr. Tahir also filed an affidavit to the above effect before the AO. However, the AO was not convinced with the explanation furnished. In particular, Tahir could not produce documentary evidence of his own business transactions, of receiving a debit card

from one Sri Motwani and the details of persons making deposits in the account of Sri Motwani. Interestingly, Tahir did not have any specific business premises. He claimed that he was receiving telephonic orders over phone from various parties and after receipt of money from the parties through the account of Sri Motwani, he was supplying to them auto parts through the local bus service. Importantly, Tahir could not identify most of the persons whose names figured in the bank statement.

4. Consequently, the version of the Assessee that Tahir had bona fide parked his money in the Assessee's bank account was not believed by the AO who proceeded to add the said sum to the taxable income of the Assessee.

5. The Assessee appealed to the CIT (A). The same paper book, containing Tahir's affidavit and other documents including Tahir's written statements were placed before the CIT (A) who concurred with the AO. The ITAT, in the further appeal by the Assessee, again examined the entire material and concurred with the views of the AO as well as the CIT(A).

6. The main plank of the argument of Mr. R.P. Kar, learned counsel for the Appellant was that Tahir had disclosed the aforementioned sum in his own return and this aspect was not examined by the ITAT. The Court is not impressed with his argument because the burden was on the Assessee to give a satisfactory explanation, for the purposes of Section 68 of the Income Tax Act, 1961 as to the source of the aforementioned sum of Rs.15.7 lakhs in his bank account. The explanation offered by the Assessee was unbelievable on the face of it. The attempt by the Assessee to produce Tahir to

explain the source of the amount, failed as it raised more questions than it answered. Tahir's statement did not inspire confidence.

7. Having carefully examined the orders of the AO, the CIT(A) and the ITAT, and the paperbook produced by the Assessee before the said authorities, this Court is not persuaded that any of the said authorities has committed any legal error which gives rise to any substantial question of law that requires to be examined by this Court. Consequently, the Court declines to frame the question as urged.

8. There is no merit in this appeal. It is dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

S. Behera