

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI

**BEFORE SHRI PRASHANT MAHARISHI, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 1440/Mum/2022
(Assessment Year: 2015-16)

Vijay Kashinath Jagtap E-1/603, Mohan Puram, Sai Kansai Section, Ambernath (E), Mumbai- 421 501	Vs.	DCIT, Circle -2 Mumbai
PAN/GIR No. AANPJ 9088 L		
(Appellant)	:	(Respondent)

Appellant by	:	None
Respondent by	:	Shri Vranda U. Matkarni

Date of Hearing	:	27.09 .2022
Date of Pronouncement	:	22.12.2022

ORDER

Per Kavitha Rajagopal, J. M.:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short)-3, Thane passed u/s.143(3) of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2015-16.

2. The assessee has challenged the addition made u/s. 68 of the Act on the difference in the returned income and assessed income, amounting to Rs.4,00,904/- and has also challenged the levy of interest u/s. 234B of the Act.

3. As there was no representation on behalf of the assessee, we proceed to dispose of the appeal by hearing the ld. Departmental Representative (ld. DR for short) and on perusal of the materials available on record.

4. It is observed that the appeal has been filed belatedly delay of 735 days and the assessee has filed Affidavit stating that he has reasonable cause for not filing the appeal on time due to the reason of Covid protocol and for other reasons specified in the Affidavit, we find that there is sufficient cause for the delay in filing the appeal on time. We hereby condone the delay in filing the appeal.

5. Brief facts of the case are that the assessee is an individual and has earned income from salary from M/s. Pfizer Ltd. The assessee filed his return of income dated 26.08.2015, declaring total income of Rs.47,31,352/- and filed revised return dated 17.12.2016 and 05.09.2016, declaring total income at Rs.30,00,854/- and Rs.29,00,854/- respectively. The assessee's case was selected for scrutiny and the assessment order dated 31.10.2017 was passed u/s. 143(3) where the A.O. made an addition of Rs.34,56,827/- u/s. 68 of the Act as 'unexplained cash credits' being the difference in the salary received as per Form 26AS and voluntarily offered the difference for taxation. The A.O. also disallowed deduction under Chapter VIA, amounting to Rs.4,24,172/- on the ground that the assessee has failed to prove the same by documentary evidence.

6. The assessee then challenged the assessment order before the ld. CIT(A) who confirmed the said addition on the ground that the assessee has failed to substantiate the difference of the impugned amount, which was added u/s. 68 of the Act as 'unexplained

cash credit'. The Id. CIT(A) confirmed the addition, levy of interest and the penalty proceedings initiated by the A.O.

7. The assessee is in appeal before us, as against the order of the Id. CIT(A).

8. It is observed that at the time of assessment proceedings, it was found that as per Form 26AS, the total salary received was declared at Rs.63,75,681/- but the appellate in his revised return dated 05.09.2016 has declared an amount of Rs.29,00,854/-. The A.O. had issued notice u/s. 133(6) to M/s. Pfizer Ltd. which had replied that the assessee has received total salary of Rs.63,75,681/- during the impugned year for which the assessee was issued show cause notice to explain the difference amount of Rs.34,56,827/-. It is observed that neither before the A.O. nor before the first appellate authority, the assessee has given any documentary evidence to substantiate the difference in the salary unit. The A.O. added the said income u/s. 68 as 'unexplained cash credit' and initiated the penalty proceeding for the same for concealing the particulars of income.

9. In an appeal before the Id. CIT(A), the assessee has again failed to furnish any documentary evidence in support of his claim. The Id. CIT(A) confirmed the addition made by the A.O.

10. The Id. DR for the Revenue contended that the assessee has failed to furnish any documentary evidence to explain the difference amount in the salary income before the lower authorities. The Id. DR alleged that the assessee has claimed an incorrect amount for the purpose of fraudulently claiming higher refund which was established by the

department and had for this purpose intentionally revised his return of income twice by declaring a lesser amount as 'salary income'. The ld. DR relied on the order of the lower authorities.

11. Having heard the ld. DR and perused the materials available on record. It is evident that the assessee was working with M/s. Pfizer Ltd. and had taken voluntary retirement. On a perusal of Form 26AS, the gross total income of the assessee was declared as Rs.63,58,458/- and the assessee has filed his original return of income dated 26.08.2015, declaring net income of Rs.45,39,698/- and revised his return of income declaring Rs.23,26,687/- and Rs.24,26,682/- in his second revised return dated 17.02.2016. The allegation by the lower authorities that the assessee has fraudulently claimed higher refund by filing the revised return twice is not controverted by the assessee either by way of return submission or by producing any documentary evidence in support of his stand. The assessee has failed to rebut the addition made by the A.O. and confirmed by the ld. CIT(A). It is also observed that the A.O. had issued notice u/s. 133(6) to M/s. Pfizer Ltd. which had replied stating that the assessee has received Rs.63,75,681/- during the impugned year. The assessee has failed to establish the difference amount specified in Form 26AS and the returns filed by the assessee. Though several opportunities have been given to the assessee, the assessee has failed to furnish any documentary evidence for rebuttal.

12. From the above observation, we are of the considered view that the assessee has nothing to controvert the view of the lower authorities in making the addition u/s. 68 of

the Act as 'unexplained cash credit'. We find no infirmity in the order of the Id. CIT(A) and hereby dismiss the grounds raised by the assessee.

13. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 22.12.2022

Sd/-
(Prashant Maharishi)
Accountant Member

Sd/-
(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 22.12.2022

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai