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% 09.02.2011

Present: Ms. Rashmi Chopra, Advocate for the Revenue.

+ ITA 229/2011

Though the Assessing Officer, while making assessment in respect of assessment year 2004-05 in the case of the respondent/ assessee herein had made number of additions, however, in this appeal we are concerned with one addition only which is the subject matter of challenge. The Assessing Officer had made an addition to the tune of ₹ 1,62,00,000/- under Section 68 of the Income Tax Act, (hereinafter referred to as the 'Act'), on the ground that the source of this amount, as reflected in the books of account of the assessee was not clear and it was not explained by the assessee as to how this amount was received. It is not in dispute that the assessee had stated that the aforesaid amount was representing advance against the sale of property and payment was received from one Sh. Praveen Jolly. However, since bank statement in support of the aforesaid plea was not filed before the Assessing Officer, it led to making the addition by the Assessing officer in this behalf.

Before the CIT (A), the assessee filed the requisite documents. The CIT (A) on those documents called for the Remand Report of the Assessing Officer. This Remand Report submitted by the Assessing officer after verification of the documents reads as under:-

“Further my predecessor made additions amounting to ₹ 1,62,00,000/- + ₹ 500,000/- as credit u/s 68. AO had made addition of ₹ 1,62,00,000/- as assessee



had not filed bank statement of Sh. Parveen Kumar Jolly and Ms/ Usha Computel P Ltd as credit u/s 68. Now as per submissions assessee has pointed out. This property was sold on 12th May, 2004 during the assessment year, the assessee has received only advance money. In this regard the verification of reply filed on 8.12.2006. The assessee company has reported as under. The payment was received from Sh. Parveen Kumar Jolly which is an advance against sale of property, having regard to fact stated above it is humbly prayed that all the transactions are through the bank and duly accounted in the books of account. In support to above the assessee company has filed its bank statement highlighting as under:-

1. ₹ 2,00,000/- dated 6.9.03
2. ₹ 10,00,000/- dated 11.9.03
3. ₹ 50,00,000/- dated 19.9.03
4. ₹ 100,00,000/- dated 19.9.03.

Further verification of the record, it reveals the assessee has filed bank instruments. The same is being submitted for your kind perusal."

It is clear from the above that the Assessing Officer was satisfied about the source of the aforesaid money in the hands of the assessee which was even duly accounted for and reflected in the bank statements filed by the assessee. It is also a matter of record that on the sale of this property, capital gain had accrued to the assessee and this capital gain was declared by the assessee in the next assessment year 2005-06. Even balance consideration, which was received from the purchase during the next year, was also declared in the Income Tax Return of that year.

Thus, the CIT deleted the said addition. This order of the CIT (A) has been upheld by the Tribunal in the following manner:-



"We have carefully considered the rival submission in the light of material placed before us. The relevant portion of remand report has already been reproduced above. It is seen that Parveen Kumar Jolly and Gulshan Kumar Jolly both are directors of Bankey Bihar Realtors P. Ltd. who had purchased the property from the assessee, the possession of which was given vide letter dated 15.03.04, a copy of which was placed in the paper book. In the remand report, the AO has specifically mentioned that copy of bank account was produced and the transaction are duly accounted for in the books of account. The AO in the remand report has nowhere doubted the genuineness of all these transactions. No adverse material has been brought on record to suggest that the advance received by assessee as advance of property was doubtful. Therefore, we see no infirmity in the order of CIT (A) when he deleted the addition of ₹ 1,62,00,000/- as the verification was made by the AO in the remand report. We dismiss this ground of the revenue."

No question of law arises in these circumstances. This appeal is accordingly dismissed.


A.K. SIKRI, J.


INDERMEET KAUR, J.

FEBRUARY 9, 2011

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