

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER

ITA NO. 366/MUM/2015 : **(A.Y : 2010-11)**

Smt. Devyani Bharat Desai
C/o. Shah and Company
Legal Advisor & Tax Consultant
201/211, Princess Street, Kesar
Building, 1st floor, Room No. 11,
Mumbai 400 002. (Appellant)

Vs. ITO, Ward-14(3)(1),
Mumbai (Respondent)

PAN : AABPD2297F

Assessee by : Shri Nishit Gandhi
Revenue by : Shri Vishwas Jadhav (DR)

Date of Hearing : 17/12/2015
Date of Pronouncement : 11/03/2016

ORDER

The captioned appeal by the assessee is directed against the order of CIT(A)-25, Mumbai dated 07.10.2014, pertaining to the Assessment Year 2010-11, which in turn has arisen from the order passed by the Assessing Officer dated 21.03.2013 under section 144 of the Income Tax Act, 1961 (in short 'the Act').

2. In this appeal, although assessee has raised multiple Grounds of appeal, but the solitary dispute arises from an addition of Rs.11,90,000/- made by the income-tax authorities on the

ground that such amount of cash deposits made in the bank account of the assessee are unexplained.

3. Briefly put, the relevant facts are that the assessee is a retired school teacher and as per an AIR information, the Assessing Officer found that cash amounting to Rs.11,90,000/- was deposited during the year under consideration in the bank account of the assessee maintained with Union Bank of India. The Assessing Officer has noted in the impugned assessment order that inspite of issuance of notices, no explanation was received from the assessee and therefore he proceeded to treat the amount of Rs.11,90,000/- as unexplained cash credit. The said position has also been affirmed by the CIT(A) against which assessee is in appeal before the Tribunal.

4. Before me, the learned representative for the assessee, apart from other arguments, pointed out that there was no justification to treat the amount as unexplained inasmuch as the sources of cash deposits were duly explained. In this context, he has referred to the statement of facts furnished before the CIT(A), in particular, para 4 thereof, which is a cash account summary depicting availability of cash for the deposit of Rs.11,90,000/- in the bank account with Union Bank of India. In particular, it has also been pointed out that the lower authorities ought to have considered that cash of Rs.3,60,000/- was withdrawn from the bank at different times during the year which has been re-deposited. In the course of hearing, the learned

representative for the assessee has also referred to the copy of bank statement in this regard to support the above plea.

5. On the other hand, the learned Departmental Representative (in short 'the DR') appearing for the Revenue has relied upon order of the authorities below in support of the case of Revenue.

6. I have carefully considered the rival stands and find that the explanation rendered by the assessee before the CIT(A) have been unjustly rejected. No doubt, the record of proceedings before the Assessing Officer reveal that there was no explanation on the sources of deposits furnished by the assessee. So however, before the CIT(A) the assessee furnished her explanation and a remand report was also called for by the CIT(A). Quite clearly it is not a case where the assessee does not have any known source of income. The assessee had explained that she had retired somewhere in 2009 from the job of school teacher in BMC schools and that she was regularly filing returns of income upto Assessment Year 2009-10. At the time of hearing, it was explained that at the relevant point of time the assessee was not available, therefore, the requisite explanation could not be furnished. As per the appellant, the source of deposits was partly out of re-deposit of cash earlier withdrawn from the bank account and opening cash balance from the earlier period. It was also pointed out that none of the assertions made out by the assessee have been found to be untrue, but same have been merely

disbelieved. At the time of hearing, the learned representative for the assessee was specifically asked as to the details of loan of Rs.2,60,000/- purported to be received in cash. After considering the explanation furnished by the assessee, in my view, the entire cash deposit of Rs.11,90,000/- cannot be construed as unexplained. After considering the entire conspectus of facts and circumstances and the explanation furnished, in my opinion, it would meet the ends of justice if an amount of Rs.1,00,000/- is retained as addition on account of unexplained cash deposits and the balance of the amount is directed to be deleted.

7. In the result, the appeal of the assessee is partly allowed, as above.

Order pronounced in the open court on 11th March, 2016.

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Date : 11th March, 2016

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai