

**आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ 'SMC', मुंबई ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCHES "SMC", MUMBAI**  
**Before Shri Shamim Yahya, Accountant Member**

ITA No.1079/Mum/2017 : Asst.Year 2010-2011

Ms.Vanita Thadani D/o Kamal Thadani B-105, Arihant, Bonbon Lane Sevan Bungalows, Andheri (West) Mumbai – 400 053. <b>PAN : ADGPT7326P.</b>	<b>बनाम/</b> Vs.	The Income Tax Officer Ward 20(3)(4) Mumbai.
(अपीलार्थी /Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by : Shri G.C.Lalka  
प्रत्यर्थी की ओर से /Respondent by : Shri B.Satyanarayana Raju (Sr.DR)

सुनवाई की तारीख / Date of Hearing : 16.05.2017	घोषणा की तारीख / Date of Pronouncement : 03.07.2017
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**आदेश / ORDER**

This appeal by the assessee is directed against the order of CIT(A) dated 02.11.2016 and pertains to assessment year 2010-2011.

2. The issue raised in this appeal is that the learned CIT(A) has erred in facts and in law in upholding addition of Rs.12,95,000 made by the Assessing Officer u/s 68 of the Income-tax Act ignoring the fact that assessee had withdrawn cash of Rs.14,51,300 from the bank on various dates and had re-deposited the same in the bank.

3. Before the learned CIT(A), the assessee submitted that assessee had taken loans by account payee cheques from friends and relatives on various dates amounting to Rs.19,32,300 and deposited all these cheques by bank. Out of these cheques, assessee had withdrawn Rs.14,51,300 on various

dates for personal use and property investment. It was further stated that when property deal was not mataralized and cash was not required for personal use, assessee had re-deposited an amount of Rs.12,95,000 out of cash balance. This explanation was not accepted by the Assessing Officer. The action of the Assessing Officer was confirmed by the learned CIT(A).

4. I have heard both the Counsel and perused records.

5. I find that the authorities below have not examined the issue properly. Assessee's explanation of deposit can be considered only after examining the source of cash of those deposits. In this case assessee has claimed that the source of cash was unsecured loans from friends and relatives. This aspect has not at all examined by the authorities below. Hence, I remit this issue to the file of the Assessing Officer to consider the issue denovo after giving the assessee proper opportunity of being heard.

6. In the result, this appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on this 03<sup>rd</sup> day of July, 2017.

Sd/-  
(Shamim Yahya)  
**ACCOUNTANT MEMBER**

मुंबई Mumbai; दिनांक Dated : 03<sup>rd</sup> July, 2017.  
Devdas\*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.

3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A), Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai