

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT

**Before: Shri Rajpal Yadav, Judicial Member  
and Shri Amarjit Singh, Accountant Member**

**[Conducted through E-Court at Ahmedabad]**

**ITA No. 68/Rjt/2017  
Assessment Year 2008-09**

Umarbhai Bavalbhai Notiyar, 15- Popatpara, Opp. Nishta Vidha Mandir, Rajkot PAN:AZLPN2081N (Appellant)	Vs	The ITO, Ward-2(3)(3), Rajkot (Respondent)
---	----	---

**Revenue by: Shri Praveen Verma, D.R.  
Assessee by: None**

Date of hearing : 05-12-2017  
Date of pronouncement : 12-01-2018

**आदेश/ORDER**

**PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-**

This assessee's appeal for A.Y. 2008-09, arises from order of the CIT(A)-2, Rajkot dated 01-12-2016, in proceedings under section 143(3) r.w.s. 147 of the Income Tax Act, 1961; in short the Act.

2. The assessee has raised following grounds of appeal:-

*“1.0 The grounds of appeal mentioned hereunder are without prejudice to one another.*

*2.0 The learned Commissioner of Income-tax (Appeals)-2, Rajkot [hereinafter referred to as the CIT (A)] erred on facts as also in law in retaining addition of cash deposit of Rs. 6,50,000/- in the bank account by alleging that appellants version of depositing cash out of pension income, retirement benefits and past saving cannot be accepted in the absence of corroborative evidences. The addition retained is totally unjustified on facts as also in law and may kindly be directed to be deleted.”*

3. In this case, the assessing officer has received information from ITO (CIB) that assessee has deposited cash aggregating to the amount of Rs. 10 lacs in saving bank account in SBS/SBI S, Rajkot. Thereafter, the case of the assessee was reopened u/s. 147 of the act by issuing of notice u/s.148 on 19<sup>th</sup> March, 2015. In response to notice u/s. 148, the assessee has re-filed the return of income declaring income of Rs. 72648/-. The assessee has derived income from pension of Rs. 60839/- and interest income of Rs. 11890/-. Regarding cash deposited of Rs 10 lacs, the assessee has stated that it is not unaccounted money. In this connection, he submitted that he retired on 18<sup>th</sup> Feb, 1982 from Gujarat Government Panchayat Vibhag as a class 3 servant . He received total sum of Rs. 50,000/- as a retirement benefit, gratuity, leave encashment, PF etc. He further stated that he was living with younger son and received 500 per month from 1982 to 1996 from his five sons as maintenance and thereafter Rs. 750/- per month as maintenance from them for 1997 on-wards. He stated that he was not having any bank account except with branch of State Bank of Saurashtra, Rajkot. He has also stated that he has no interest in interest income as he

belongs to Muslim community. He explained that there was total cash saving of Rs. 10.38 lacs consisting of (Rs. 50,000/- gratuity leave encashment PF= Rs. 7,99,000/- pension amount withdrawn from March, 1982 to 6<sup>th</sup> August, 2007 + Rs. 1,89,000/- from 1998 to 2007 cash amount received as maintenance from his sons ) which was deposited in his saving bank account due to family personal problem and insecurity. The assessing officer has not accepted the explanation of the assessee on the ground that no prudent person would keep such huge amount for such long time at his residence. The assessing officer has observed that assessee has deposited amount of Rs. 10 lacs out of his income from undisclosed source as assessee could not explain the source of cash in his case satisfactorily. Therefore, he has made addition of Rs. 10 lacs as income of the assessee from undisclosed source.

4. Aggrieved assessee filed appeal before he Id. CIT(A). the Id. CIT(A) b has partly allowed the appeal of the assessee by observing as under:-

*"5. I find that the AO has held the cash deposits of Rs.10,00,000/- in assessee bank A/C to be un-explained. Both during the assessment as well as appellate proceedings the plea of the assessee is that he is a pensioner since 1982 and the said cash deposits were out of his pension, retirement benefits and past savings. The AO has brought out contradiction in submission of assessee that on the one hand he states that he does not trust bank and on the other hand he makes a deposit in a bank A/C. The AO has also observed contradictions in submissions of appellant in his explanations filed on various dates.*

*6. Having considered facts and circumstances of the case and rival contentions, I find that the fact that the assessee is pensioner since 1982 is uncontroverted. It is verifiable that pension receipts and withdrawals are about Rs. 7 lacs over a period of almost 25 years. The yearly pension of assessee 1982-83 was Rs.5728/- and about Rs. 53000/- in F.Y. 2006-07. The -- receipts of Rs. 1000 p.a./Rs. 800 p.a. from his 5 sons initially and 4 sons later is also a fact of record. Even all these sources leave a gap of Rs. 3 lacs which is explained to be out of*

*his savings. I am of the considered opinion that the contention that the whole of pension and the maintenance charges from sons was saved by assessee and nothing was spent cannot be accepted, The amount itself being meager and there being admittedly no other source of livelihood, cent-percent saving cannot be believed. At the same-time it cannot be denied that some portion of his pension income would have been saved by assessee and could, be the source of cash deposit in his bank A/c. To meet ends of justice I hold that 50% of pension amount of about Rs. 7 lacs could have been saved by assessee to be deposited in bank A/c. Thus deposits of Rs. 3,50,000/- out of savings are held to be genuine. Balance amount of Rs. 6,50,000/- deposited in cash in bank A/c is held to be out of unexplained sources and addition to this extent i.e., Rs.6,50,000/- is confirmed.”*

5. During the course of appellate proceedings before us, nobody has attended the hearing from the side of assessee. The Ld. DR has supported the order of the Ld.CIT(A). However, the assessee has filed paper book dated 30<sup>th</sup> Nov, 2017 containing information like copy of order of Id. CIT(A) submission made before the Id. CIT(A) and assessing officer, photocopy of passbook etc. It was mentioned that the assessee is 92 years old. He has been retired as a government servant since 22<sup>nd</sup> Feb, 1982. The source of cash deposit was amount received from retirement benefit like gratuity, leave encashment, pension received since 1982 and the maintenance amount received from his sons. The Id. CIT(A) observed that some portion of the pension amount and the maintenance amount received could have been saved and deposited in the bank account of the assessee. On perusal of material on record we observed that it is undisputed fact that assessee was receiving pension and maintenance from five sons. We further observed being looking to the age of the person having no other family liability there is possibility of saving from part of the amount received from the aforesaid sources. In view of the above facts and after considering

the old age and having no other liability upon the assessee, we observed that it will be appropriate to restrict the addition to the extent of Rs.3.5 as against the addition of Rs. 6.5 lacs confirmed by dl. CIT(A). Therefore, the appeal of the assessee is partly allowed.

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 12-01-2018

**Sd/-**  
**(RAJPAL YADAV)**  
**JUDICIAL MEMBER**  
**Ahmedabad : Dated 12/01/2018**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

आदेश का प्रतिलिपि अर्पण / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Rajkot