

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD %SMC+BENCH

**Before: Shri Amarjit Singh, Accountant Member
And Ms. Madhumita Roy, Judicial Member**

**ITA No. 239 /Ahd/2017
Assessment Year 2013-14**

Shri Bharatbhai Jayantibhai Barot, Ahmedabad PAN: AGUPB6969K (Appellant)	Vs	The ITO, Ward-3(3)(12), Ahmedabad (Respondent)
---	----	---

**Revenue by: Shri Uma Shankar Prasad, Sr. D.R.
Assessee by: Shri Kushal Jagad, A.R.**

Date of hearing : 04-09-2018
Date of pronouncement : 11-10-2018

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2013-14, arises from order of the CIT(A)-3, Ahmedabad dated 29-11-2016, in proceedings under section 143(3) of the Income Tax Act, 1961; in short the Act.

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

"1) The Ld. Commissioner of Income-tax (A) has erred in law and on facts in confirming the addition of Rs. 10,23,000/- out of total cash deposited in bank account as added by the Assessing Officer u/s.69A of the Act.

2) The Id. Commissioner of Income-tax(A) has erred in law and on facts in holding that the cash of Rs. 10,23,000/- was not recorded in the books of accounts and assessed did not furnish any satisfactory explanation to the Assessing Officer with regard to the source warranting the making of the addition U/S.69A of the Act in spite of the fact that the cash

was recorded in the books of accounts and through cash book forming the part of books of accounts and satisfactory explanation with regard to its source has been furnished to the Assessing Officer and the Ld. Commissioner of Income-tax (A).

3) On the facts and in circumstances of the case, the Ld. Commissioner of Income-tax (A) ought to have granted the relief as prayed by the appellant and deleted the addition of Rs.10,23,000/-made by the Assessing Officer u/s.69A of the Act.

4) It is, therefore, prayed that the order of the Ld. Commissioner of Income-tax (A) may be set-aside and the relief as prayed be granted by way of directing the deletion of the addition of Rs.10,23,000/- made by the Assessing Officer u/s.69A of the Act.”

3. All the grounds of appeal are inter-connected to the common issue, therefore, for the sake of convenience the same are adjudicated together as under:-

4. The brief fact of the case is that assessee has filed return of income on 21st June, 2013 declaring total income at Rs. 4,20,588/-. Subsequently, the case was selected under scrutiny by issuing of notice u/s. 143(2) on 04-09-2014. During the course of assessment, the assessing officer noticed that assessee has deposited cash of Rs. 12,73,000/- in his saving bank a/c maintained with Bank of India, Thaltej, Ahmedabad. The assessee was asked to furnish the complete details and explain the source of cash deposit in the above cited bank a/c. The assessee referred the source of cash deposit to opening cash balance of Rs. 14,61,728/- appearing in the cash book relevant to the assessment year under consideration. It was also explained that this opening cash include cash of Rs. 8,25,000/- received on sale of his motor car Tavera which was owned by the assessee. The copies of car purchased bill, loan sanction letter, pre-payment of loan receipt etc were enclosed . The assessing officer has rejected the claim of the assessee and treated deposit Rs. 2,50,000/- as reasonable out of the saving of the assessee and added the balance amount of cash deposit in bank a/c of 10,23,000/- as unexplained cash deposit u/s. 69A of the act.

5. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee reiterating the reason stated by the assessing officer.

6. During the course of appellate proceedings before us, the Id. counsel has furnished paper book containing detail and submission made before the assessing officer and Id. CIT(A) during the course of assessment proceedings and appellate proceedings. He has contended that Id. CIT(A) is not justified in confirming the addition made by the assessing officer without taking into consideration the supporting relevant material furnished as source of deposit of cash found in the bank a/c. On the other hand, Id. departmental representative has supported the order of Id. CIT(A).

7. We have heard the both the sides and perused the material on record carefully. The solitary issue in the appeal of the assessee is the addition of Rs. 10,23,000/- made by the assessing officer by treating the cash deposited in the bank a/c of the assessee as unexplained u/s. 69A of the act. The assessee explained that source of cash deposit was from the opening cash balance of Rs. 14,61,728/- appearing in the cash book pertaining to the year under consideration which included sale proceeds of Rs. 8,25,000/- from the motor car owned by the assessee. The assessee has also submitted copies of sale agreement, copy of motor car purchase bill, loan sanction letter etc. However without contradicting the evidences/material the assessing officer has rejected the claim of the assessee. We observe that these facts demonstrate that assessing officer has not verified the entries in the cash book of the immediately previous year ending as on 31st March, 2012 and the other materials furnished by the assessee.. In view of the above facts and circumstances, we are of the view that in order to decide this case on merit, it is imperative to verify/examine the supporting material claimed by the assessee as source/evidence of impugned cash deposit found in the bank a/c. Therefore. we restore this issue to the file of

assessing officer to decide a fresh on verification/examination of the above material/evidence after affording adequate opportunity of hearing to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 11-10-2018

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad : Dated 11/10/2018

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क० तालम अ० षत / Copy of Order Forwarded to:-

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

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपील[य आधकरण,
अहमदाबाद