

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 146/DEL/2016 (A.Y 2012-13)**

Smt. Rupinder Dhanoa Sidhu C/o. R. S. Ahuja & Co. C.A C-353, Defence Colony New Delhi ACIPD0250F <b>(APPELLANT)</b>	Vs	ACIT Central Circle-31 New Delhi.  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. R. S. Ahuja, CA</b>
<b>Respondent by</b>	<b>Sh. Raja Ram Sah, CIT DR</b>

<b>Date of Hearing</b>	<b>22.11.2018</b>
<b>Date of Pronouncement</b>	<b>28.11.2018</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 23/10/2015 passed by CIT(A)-30, New Delhi for Assessment Year 2012-13.

2. The grounds of appeal are as under:-

*“(A). That on the facts & circumstances of the case the Learned ITO/ CIT(A) erred in*

*1. Making an addition of Rs. 6,60,000/- out of the cash found at the time of search even though complete justification & explanation. For the availability of cash was given.”*

3. Return declaring income of Rs. 15,11,496/- was filed on 11/02/2013. Search and seizure action u/s 132 of the Income Tax Act, 1961 was initiated in

the case of the assessee on 23/8/2011 at Gurgaon. Statutory notices u/s 143(2) was issued on 11/9/2013 and was served. Thereafter, a questionnaire u/s 142(1) dated 28/7/2014 was served on the assessee. In response to the notices issued to the assessee, C.A and AR of the assessee attended and submitted the details called for. The Assessing Officer observed that the assessee derived income from salary and income from other sources. No other sources of income as admitted. During the statement recorded u/s 132(4) of the Income Tax Act, 1961, Shri Raman Singh Siddhu, husband of the assessee stated that he does not possess statement of his account in HSBC Bank, Geneva. During the search of lockers in HSBC in Gurgaon and Delhi maintained by the assessee in joint with her husband Shri Raman Singh Siddhu, cash amounting to Rs. 13 lacs was found. Statement of Shri Raman Singh Siddhu was recorded on 23/8/2011, u/s 132(4) of the Income Tax Act, wherein specific questionnaire regarding the availability of the cash in lockers maintained by him was asked. The Assessing Officer made an addition of Rs. 13 lacs towards the cash found in locker and treated the same as unaccounted income of the assessee, u/s 69A of the Income Tax Act, 1961. The Assessing Officer also made addition in respect of credit entries totaling to Rs. 37,99,987/- and treated the same as income of the assessee from undisclosed sources and added the said amount to the income of the assessee u/s 69 of the Income Tax Act.

4. Being aggrieved by the assessment order, the assessee filed the appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) erred in making an addition of Rs. 6,60,000/- out of the cash found at the time of search even though complete justification explanation for the availability of cash was given. The Ld. AR further submitted that the AO had made addition U/s 69A of the Act, 1961 although the said provisions was not applicable to the given facts of the matter as the nature and source of cash of Rs. 1300000/- was confirmed by the CIT(A)

at Para 7 of his order. Further, the CIT (A) had appreciate the factual matrix and further confirmed/ reproduced the following facts, but at the same time has upheld the addition on account of unexplained cash found from the lockers to the extent of Rs. 6,60,000/- on estimate basis. The Ld. AR submitted that the regular withdrawals have been made by the assessee over a period of time. The source of deposit has been established, as the money represented the income earned by the husband of the assessee. The savings of the assessee cannot be ruled out from the withdrawals made over a period of time to meet out household and other expenses. Cash in hand (after meeting expenses/ drawings) of the Assessee as at 31.03.2011 is Rs. 1883425/- which is much more than the cash of Rs. 1300000/- found at the time of Search dated 23.08.2011. The assessee is also a regular tax payer as she was employed with DIAL and with Group 4S Services (P) Ltd. from Jan., 2009 onwards. It is a matter of record that no other adverse observation in regards to the drawings/ expenditures incurred through Banking Channels by assessee or her family members were recorded by the Department at the time of Search proceedings as well as at the time of Assessment Proceedings. Further, the assessee has done MA in aviation Management and has working experience of more than 20 years. She had worked in British Airways as Cabin Crew for 11 years, then as Senior Manager Airport with M/s. GMR for two-three years and at the time of Search she is "Director Corporate affairs and CSR and Communication" with M/s. G4S Secure Solutions India (P) Ltd. Her Husband is CA-MBA and has working experience of more than 36 years. He worked in Grind-lays Bank, Barclays Bank and in HSBC Securities and Investment (P) Ltd. as Sr. Director. It is worth mentioning that the family of the assessee comprises of Self, Husband and School Going daughter. The son resides abroad for studies. Hence, keeping in view the cash balance available with the family and aforesaid facts, the addition on account of estimation/ mere rejection without assigning reason is completely unjustified. The Ld. AR relied upon the decisions in case of Anand Prakash Soni vs. DCIT {101 TTJ 0097} [Jodh], DCIT vs. Vishwanath Prasad Gupta {57 DTR 0089}[Jab Trib], Ashwani Kumar vs. ITO {39 ITD

0183}[Del Trib], Ashok Chaddha vs. ITO {69 DTR 0082} [Del], Yadu Hari Dalmia vs. CIT{126 ITR 0048} [Del], CIT vs. Pagariya Nandakishore Suwalaji {79 CCH 0519} [Kar HC], CIT & ANR. vs. S.N. Murali Mohan {320 ITR 0144} [Kar HC], Harbans Lai Gupta vs. ITO {37 TTJ 0636}[Del Trib], JCIT vs. Budh Kishore {90 TTJ 0410} [Del Trib], ITO vs. Karan Mehra {40 CCH 0458} [Del Trib].

5. The Ld. DR relied upon the order of the Assessing Officer and the order of the CIT(A).

6. We have heard both the parties and perused the material available on record. The CIT(A) held as under:-

*“4. The/Ground No. 1 is against the addition on account of cash of Rs. 13,00,000/-, found and seized during the search and seizure action u/s 132 of the Act.*

*4.1. The A.O. has made the above addition and findings of the A.O. in assessment order u/s 143(3) dated 27.02.2015, are reproduced as under:-*

*“4. . During the search of lockers in HSBC Banks in Gurgaon and Delhi, maintained by the assessee in joint with her husband-Shri Raman Singh, cash amounting to Rs. 13,00,000/- [Rs. 1250000' 50000] was found. Statement of Shri Raman Singh Sidhu was recorded on 23.08.2011 u/s 132(4) of the Income Tax Act, wherein a specific question regarding the availability of cash m lockers maintained by him was asked. The relevant portion of his statement is reproduced hereunder:-*

*Q.6 Have you or your family members kept any document, cash or valuable with any third party including safe custody facility of any bank or agency? If so Please furnish details.*

*Ans. I am having approximately 10-12 lac cash in my locker No.D-2000. Out of which one to two lac pertains to my mother-in-law and balance relates*

*to my wife (Rupinder Dhanoa Sidhu) ",*

*4.1 During the search of locker no. D-2000, HSBC Bank, Gurgaon maintained in the name of assessee in joint name with Shri Raman Singh Sidhu, cash amounting to Rs.12,50,000/- was found. At the time of the search of this locker, statement of the assessee- Smt. Rupinder Dhanoa Sidhu 'was recorded. The relevant part of the statement of Smt. Rupinder Dhanoa Sidhu dated 01.10.2011 is reproduced as under:-*

*Q: 4. On search of locker no. D-2000, cash amounting to Rs. 12,50,000/- (Rs. Twelve Lakhs fifty Thousands only) has been found. Please explain the source of this cash.*

*Ans: This cash belongs to me. This is accumulated over a period of time from savings. Apart from this, this cash also includes savings from my expenses and money received on various occasions like birth day on my children etc.*

*Q:5. Kindly produce the necessary evidentiary proof in your contention in question no. 4.*

*Ans: - Right now, I cannot produce any such proof. But I want to state that this savings is made by me from the accumulated income. The copies of relevant IIRs will Min\* produced in due course.*

*4.2 During the search of locker no. E-722, HSBC Bank, South Ext., New Delhi maintained in the name of assessee in joint name with Shri Raman Singh Sidhu, cash amounting to Rs. 50,000/- was found. At the time of the search of this locker, statement of the assessee- Smt. Rupinder Dhanoa Sidhu was recorded: The relevant part of the statement of Smt Rupmder Dhanoa Sidhu dated 07./0.207/ is reproduced as under:-*

*“Q: 3 On searching the locker no. E-722, the following items have been found:*

i) Gold jewellery weighing 871.400gm worth Rs.23,45,016/- (as per valuation report dated 12.10.2011.

ii) Cash amounting to Rs.50,000/-.

Please explain the source of above.

Ans. ....

Further I want to state that the cash of Rs.50,000/- is received as Shagun on auspicious occasions ”.

4.3 From the statements of Shri Raman Singh Sidhu as well as of Smt Rupinder Dhanoa Sidhu, as reproduced above, it is clear established beyond any iota of doubt that cash found in the lockers belonged to Mrs. Dhanoa Sidhu only.

Vide notice u/s 142(1) dated 15.12.2014, the assessee was asked “Cash of Rs. 72,50,000/- and Rs.50,000/- was found in locker No. D-2000 and Locker No. E-722 of IISBC Bank, Gurgaon and Delhi respectively. The cash found in the lockers has been owned by you. Please explain the source of cash found in the lockers alongwith documentary evidence In response assessee's written reply dated nil was received wherein no specific reply has been fundsh rather simply stated that “The cash of fo.72,5'0,000/- and Rs.50,000/- found from lockers represented my savings over the years out of cash withdrawn.”

4.4 The reply of the assessee has been perused but found not tenable. She in her statements reproduced herein above had stated that cash found in the lockers represents her past savings and money received on various occasions like birth day of her children. In her written reply reproduced herein above, she again stated that the cash of Rs.12,50,000/- and Rs.50,000/- found from lockers represented her savings over the years out of cash withdrawn.

4.5 In order to verify the assessee's that the cash found in lockers is savings out of cash withdrawn, her bank statements in Standard Chartered Bank and Deustche Bank for the FY 2005-06 to 2011-12 were verified and it was

*noticed that in these years she withdrew cash of Rs. 15,000/- from Standard Chartered Bank on 11.09.2007 and deposited Rs.25,000/- in Standard Chartered Bank on 28.04.2009. Hence the assessee has not withdrawn any cash from her bank accounts during the last 7 years, which could be available with her. Thus the statement of the assessee as well as her explanation in the written reply that the cash found represents her savings out of withdrawals is false and incorrect on the face of records itself. Regarding assessee's plea of having received gifts on birthday of children and shaguns on auspicious occasions, it may be added here that custom of gifts/shaguns prevails in our society but are reciprocal and cannot be a source of accumulation of such a huge amount. Accordingly the assessee has failed to furnish any evidence regarding the source of cash found in her lockers.*

*4.6 In view of the detailed discussion above, the cash found in lockers amounting to Rs. 13,00,000/- is treated as the unaccounted income of the assessee u/s 69 A of the Income Tax Act, 1961 and added to the total income of the assessee.*

*As discussed above, I am satisfied that the assessee is liable for penalty proceedings u/s 271 AAA of the Income-Tax Act, 1961 with regards to the addition of Rs. 13,00,000/- as detailed above, and accordingly penalty proceedings are being initiated separately by the issue of notice u/s 274 of the Act. ”*

During the appellate proceedings, Ld. A.R. has filed written submission vide letter 15.6.2015, which is reproduced as under:-

**‘GROUND NO.1**

*The learned DCIT has made addition of Rs. 1300000 on account of Cash found in Lockers during the search. He has based his decision to make the addition on the statement of the assessee recorded during the search where in the assessee has asserted that the cash found in lockers represented her savings over the years out of cash withdrawn. The assessee had vide her letter dated 26<sup>th</sup> Dec. 2014 given detailed justification of cash found. The*

*assessee had attached the details of cash withdrawn during the last seven assessment years from the bank account of the assessee held jointly with her husband and utilization of the same giving the cash in hand at the end of each year. A copy of the reply of the assessee is enclosed for your ready reference with the cash flow chart submitted to the DCIT. It can be seen from the same that the cash in the hand of the assessee as at 31.03.2011 is Rs. 1883425 which is much more than the cash of Rs. 1300000 found at the time of search. The learned DCIT while making the addition has ignored the vital point that the accounts from where the cash In • withdrawn are the accounts in the joint name of the assessee and her husband and the cash, found represented the cash in the hands of both of them as a family. The family out of the assessee comprises of self, husband and school going daughter. The son resides abroad for studies. Hence keeping in view the cash balance available with the family out of cash withdrawn from banks over the last seven years no addition can be made on account of cash und during the search in the hands of the assessee. Therefore the addition of Rs. made by the learned DCIT needs to be deleted. ”*

**4.3. Findings on Ground No. 1 :***The findings are as under:-*

**4.4.** *I have carefully considered assessment order, written submissions and oral arguments of Ld. AR. The objections/arguments of the appellant are discussed as under: -*

(i) *The appellant has stated that cash found in both the lockers, belongs to her. However, in the statement of her husband, Shri Raman Singh Sidhu, he has stated that Rs 1 to 7 lac belongs to my mother-in-law and balance relates to my wife i.e. the appellant*

(ii) *The lockers in HSBC bank in Gurgaon and Delhi, are in the joint name of the appellant with her husband, Shri Raman Singh Sidhu. In the statement recorded u/s 132(4), the appellant has stated that cash found in the lockers, belongs to her. Which has been accumulated over a period of time*

*from past savings and also received us shagun gifts on auspicious occasions.*

*(iii) During the appellate proceedings, the appellant has submitted that the cash withdrawal statement before the A.O. was filed vide letter dated 26.12.2014, where the accumulated cash balance over a period of time has been shown at Rs 18,66,000/ and therefore, submitted that cash of Rs. 13,00,000/-, found from the lockers, is fully explained. However, this argument of the appellant did not find favour with the A.O for the reason that she has not made regular withdrawals from the bank account, which are in the joint name with her husband.*

*(iv) In the appellate proceedings, the appellant has reiterated more or less same argument; which were taken before the A.O., in the assessment proceedings. It has also been submitted that the bank accounts from where cash has been withdrawn, are the accounts in the join name of the appellant and her husband and therefore, cash found represent the cash in the hands of both of them as a family. However, in the statement, her husband Shri Raman Singi Sidhu, has stated that the cash found from the lockers belong to his wife and mother-in-law, and therefore, the argument of the appellant that the withdrawal from the joint bank accounts represents the cash in the hands of both of them as the family.*

*From the above, the following facts emerges:*

*(a) Cash of Rs. 1 to 2 lacs belongs to the mother of the appellant, as stated by Shri Raman Singh Sidhu in the statement recorded u/s 132(4). However, the appellant has denied about the cash belonging to her mother, out of the cash found from the lockers and the appellant has owned up the cash found from both the lockers, as belonging to her only. Therefore, I hold that no cash out of Rs. 13,00,000/-, belongs to the mother of the appellant.*

*(b) From the joint bank accounts, the regular withdrawals have been shown over a period of time. The source of deposit in these joint accounts is from the*

*income earned by the husband of the appellant. However, to meet out the household and other expense, the withdrawals made over a period of time, the saving by the appellant cannot be ruled out.*

*c) It is also submitted that the appellant herself is also a regular tax payer. She was employed with DIAL (Delhi Airport International (P) Ltd.) and with Group 4S Services (P) Ltd. from January, 2009 onwards. Therefore, in these facts and circumstances, on estimate basis cash savings of approximately and upto Rs. 1,00,000/- per annum, can be considered in her hands. Accordingly, I hold that in the past 6 assessment years and upto the date of search i.e. 23.8.2011, cash of Rs. 6,40,000/- (Rs. 6,00,000/- + Rs. 40,000/-) on account of past savings, shagun/gift on auspicious occasions etc., is considered as explained, out of the total cash found from both the lockers.*

*In view of the above, the addition to the extent of Rs. 6,40,000/-, is hereby deleted and remaining amount of Rs. 6,60,000/-, is hereby confirmed.*

*Accordingly, ground no. 1, is partly allowed.”*

The CIT(A) has given a detailed finding in confirming the partial addition. There is no need to interfere with the same. The case laws which were relied by the Ld. AR are having distinguishing facts as in the present case, the amount was found in the bank locker of the assessee which was joint account along with her husband and no proper explanation or evidence was provided for the amount which was confirmed by the CIT(A). In fact, the CIT(A) has given a proper partial relief after taking into account the amounts which were gifted to the child of the assessee on various occasions and also as shagun to her from certain occasions. There is nothing new material shown by the assessee as regards the cash found in the locker. Thus, the CIT(A) has correctly confirmed the partial addition to Rs. 6,60,000/-. Therefore, this appeal does not survive.

8. In result, the appeal of the assessee is dismissed.

**Order pronounced in the Open Court on 28<sup>th</sup> November, 2018.**

Sd/-

**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated: 28/11/2018  
*R. Naheed \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	22 .11.2018
Date on which the typed draft is placed before the dictating Member	26 .11.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	28.11.2018
Date on which the final order is uploaded on the website of ITAT	28.11.2018
Date on which the file goes to the Bench Clerk	28.11.2018
Date on which the file goes to the Head Clerk	