

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ ।
IN THE INCOME TAX APPELLATE TRIBUNAL,
"B" BENCH, AHMEDABAD
BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No.1262, 1263 and 1264/Ahd/2017
निर्धारण वर्ष/ Asstt. Year: 2007-08, 2008-09 and 2009-10

Mehul Jagdishchandra Patel 1, Anupam bungalow Nr. Patel Press, Nana Bazar PAN : ADRPP 6875 A	Vs.	DCIT, Anand Circle Anand.
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(Applicant)		(Responent)
Assessee by :		Shri Mehul K. Patel, AR
Revenue by :		Shri Santosh Kannan, Sr.DR

सुनवाई की तारीख/Date of Hearing : 14/02/2019
घोषणा की तारीख /Date of Pronouncement: 15 /02/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Present three appeals are directed at the instance of the assessee against separate orders of the Id.CIT(A) dated 27.2.2007 passed for the Asstt.Years 207-08, 2008-09 and 2009-10 respectively.

2. Issues agitated in all these appeals are interconnected with each other, and therefore, deem it appropriate to dispose of them by this common order.

3. In the first common ground, the assessee has pleaded that the Id.CIT(A) has erred in confirming the addition of Rs.68,891/-, 17,730/- and Rs.44,002/-. These additions were made by the AO on account of unexplained cash deposits in the bank accounts in the Asstt.Years 2007-08 to 2009-10 respectively.

4. With the assistance of the ld.representatives, we have gone through the record carefully. We find that the assessee has made deposits in the bank accounts on various dates. The ld.CIT(A) has called for remand report from the AO. In the Asstt.Year 2007-08 one of the amounts deposited by the assessee was of Rs.40,000/-. While explaining these deposits, it was contended by the assessee that the sum withdrawn on 22.8.2006 was deposited on 23.8.2006. On this explanation, a remand report was called for from the AO. The comments made by the AO has been reproduced by the ld.CIT(A) on page nos.9 to 11 of the impugned order. At serial no.14, the ld.AO has given the following observations:

14.	40,000	Cash of Rs.30,000 withdrawn on 22-8-2006 deposited on 23-8-2006	The assessee has not given any explanation of balance of Rs.10,000/-. The same is required to be uphold.
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5. The ld.counsel for the assessee submitted that the AO himself accepted the explanation of the assessee to the extent of Rs.30,000/- and doubted only Rs.10,000/-. Credit of this Rs.30,000/- has not been given by the ld.CIT(A) while deciding the appeal. The ld.DR was unable to controvert this contention of the ld.counsel for the assessee.

6. On due consideration of the above facts and circumstances, we are satisfied that out of addition confirmed at Rs.68,891/-, Rs.30,000/- deserves to be deleted and addition of Rs.28,891/- deserves to be confirmed, because there is no explanation by the assessee about the source of funds, out of which these deposits could be made. Similarly, with regard to other cash credits in remaining two assessment years are concerned, the assessee failed to give any explanation, hence, the ld.CIT(A) has rightly confirmed these additions.

7. Ground no.2: In this ground of appeal, the grievance of the assessee is that the Id.CIT(A) has erred in confirming the addition of Rs.1,97,350/-, Rs.3,73,260/- and Rs.3,73,260/- in the assessment years 2007-08 to 2009-10 respectively.

8. Brief facts of the case are that the assessee has made payment towards LIC premium amounting to Rs.11,82,360/- in the Asstt.Years 2007-08, 2008-09 and 2009-10 respectively. When source of these payments was asked from the assessee, then it was contended that he has agriculture income, out of which, such payment was paid. The Id.CIT(A) has accepted agriculture income to the extent of Rs.9,85,000/- in the Asstt.Year 2007-08, Rs.8,09,100/- in the Asstt.Year 2008-09 and Rs.8,09,100/- in the Asstt.Year 2009-10. When these agriculture incomes were debited from the insurance premium paid by the assessee, then balance worked out to Rs.1,97,360/-, Rs.3,73,260/- and Rs.3,73,260/- in the Asstt.Year 2008-09 to 2009-10 respectively. All these additions have been confirmed by the Id.CIT(A) on the ground that the assessee failed to give any explanation about sources of the funds out of which LIC premium could be paid.

9. On due consideration of the above facts, we do not find any error in the order of the Id.CIT(A), because there is no explanation available at the end of the assessee, out of which he has made payment for the LIC premium. The sources of agriculture income has already been accepted by the Id.CIT(A) as well as the AO in the remand report. Therefore, we do not find any merit in this ground of appeal in all these three years. They are rejected.

10. In the next ground, common grievance of the assessee is that the Id.CIT(A) has erred in confirming addition of Rs.3.00 lakhs in each assessment year, which was added by the AO on account of low household withdrawal of Rs.1,09,908/-, Rs.67,157/- and Rs.4,16,305/-. Apart from that

he lives in a joint family and other family members have also shown withdrawal. Total household withdrawal shown at Rs.2,47,013/-, Rs.1,28,562/- and Rs.4,77,588/- in the asstt.Years 2007-08 to 2009-10 respectively.

11. On due consideration of the above facts and circumstances, we are of the view that the Id.AO has estimated the household expenses, ought to have been incurred by the assessee, after looking into surrounding circumstances, and reputation of the assessee. If an assessee can make payment of Rs.11,82,000/- towards LIC premium in one assessment years, then it could be easily imagined that his household expenses could not be met by Rs.67,157/-. The household withdrawal shown by the assessee are on the lower side, which has been rightly appreciated and confirmed by the Id.CIT(A). In view of the above discussion, we do not find any merit in this ground of appeal. It is rejected.

12. In the Asstt.Year 2008-09 and 2009-10, the assessee has one more ground, wherein it is pleaded that an addition of Rs.1,80,900/- and 1,41,400/- was made by not accepting the claim of agriculture income. This amount was available with the assessee for meeting household expenses. Therefore, a set off or telescopic benefit be given. After looking into the facts and circumstances of the case, we do not see any reason to give any telescopic benefit. It is pertinent to note that household expenses in the asstt.Year 2008-09 has been shown at Rs.1,28,562/-, out of which, the assessee's contribution is Rs.67,157/- only. He has filed a return of income in this year declaring total income at Rs.36,90,580/-. A person earning an income of roughly Rs.37 lakhs could not be expected to incur towards household expenses at Rs.67,157/- only. Considering this peculiar fact, we do not see any reason to

give any telescopic benefit. This ground of appeal is rejected in both the years.

13. In the result, appeal for the Asstt.Year 2007-08 is partly allowed; whereas other appeals are dismissed.

Order pronounced in the Court on 15th February, 2019 at Ahmedabad.

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

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**

Ahmedabad; Dated 15/02/2019