

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘D’

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1040/Ahd/2017

निर्धारण वर्ष/Assessment Year: 2010-11

Pranav D. Patel 13, Pshpakunj Society Gorwa Vadodara 390 016. PAN : AVQPP 9369 Q	Vs	ITO, Ward-1(2)(4) Vadodara.
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri M.J. Shah, AR
Revenue by :		Shri Virendra Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 06/03/2019

घोषणा की तारीख /Date of Pronouncement : 7/03/2019

ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER : Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-1, Vadodara dated 20.2.2017 passed for the Asstt.Year 2010-11.

2. Though the assessee has taken two grounds of appeal, but his grievance is that the Id.CIT(A) has erred in confirming the addition of Rs.12.50 lakhs.

3. Brief facts of the case are that the assessee has filed his return of income on 8.8.2011 declaring total income at Rs.1,20,390/-. The AO got information that the assessee had saving bank account with IDBI,

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Sabarmati Branch, Ahmedabad. He has deposited cash in this account during the accounting year relevant to the Asstt.Year 2010-11. Therefore, he recorded reason and reopened the assessment. The AO further found that there were three accounts maintained by the assessee with different banks viz. HDFC Bank, Bank of India and IDBI Bank. The AO has confronted the assessee with regard to the deposits made in IDBI Bank. The assessee contended that he is a qualified computer engineer and undertakes computer related jobs, particularly, those connected with networking and located in remote areas. While explaining source of deposits with IDBI Bank, it was contended that he has taken money from other family members who have agriculture income, and those monies were deposited in the bank account. The assessee has produced copy of form no.7/12 before the AO. The Id.AO did not accept the contentions of the assessee by recording following finding:

"3.4. The reply furnished by the assessee is considered carefully. On perusal of the savings bank account No. 4081040000000347 with IDBI Bank, it was noticed that the assessee has made the following cash deposits in this bank account:-

<i>Date</i>	<i>Amount deposited in cash</i>
25/09/2015	5000
30/10/2009	600000
31/10/2009	600000
30/01/2010	750000
25/02/2010	500000
<i>Total</i>	<i>2455000</i>

It was the contention of the assessee that in the savings bank account with IDBI Bank, as the assessee was planning to go abroad and as advised by the consultant he has started depositing money in the bank, withdrawing the same and re-depositing the same money again in the bank to establish that the bank account is running and operating. It is

further stated that these cash deposits were out of sale of agricultural produce by the family members. It was further stated that the deposits made in savings bank account with HDFC Bank was related to networking and other computer related jobs undertaken by the assessee,

3.5 In support of the contention of the assessee that the cash deposits were made out of sale of agricultural produce, the assessee has not submitted any proof, viz., details of agricultural activities carried out, expenditure incurred towards agricultural activities, sales bills, amount received, amount spent towards household expenditure and the amount remained with the family members of the assessee. The assessee has simply filed 7/12 extracts. Therefore, the assessee's contention that the cash deposited in the savings bank account with IDBI Bank is out of agricultural income is not acceptable. The assessee has not disclosed any agricultural income in his return of income filed. Further, nobody will withdraw cash from bank account only for re-depositing the same in the same bank account. It is pertinent to mention here that during the assessment proceedings for the A.Y. 2011-2012, it was submitted by the assessee that the cash deposits were made out of trading activity of agricultural produce. However, during the present proceedings, it was stated by the assessee that the cash deposits were made out of sales realisation of agricultural produce. The assessee has changed the stand taken during the A.Y. 2011-2012. In A.Y. 2011-2012 also, the Assessing Officer has not accepted the assessee's contention and addition to his total income has been made being unexplained cash deposits. In appeal before the Id. CIT [Appeals] for A.Y.2011-2012, it was held by him that there was no dispute that the bank account with IDBI Bank was not disclosed by the assessee in his return of income. The assessee has not proved the source of each cash deposit. However, it was directed to restrict the addition on peak credit basis. The decision of the Id. CIT [Appeals] was not accepted by the department and appeal before the Hon. ITAT has been filed. In these circumstances and that the assessee has failed to prove with corroborative evidence the source of cash deposits aggregating to Rs.24,55,000/-made in the savings bank account with IDBI Bank, the same is added to his total income u/s.69A of the Income-tax Act, 1961. Penalty proceedings u/s.271(1)(c) of the Income-tax Act, 1961 are initiated for concealing the particulars of income."

4. On appeal, the Id.CIT(A) confirmed the addition to the extent of Rs.12.50 lakhs by holding that similar additions have been made in the

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Asstt.Year 2011-12 and those additions have been confirmed by the Id.CIT(A). The brief finding recorded by the Id.CIT(A) is worth to note, which reads as under:

“4.3. I have considered the facts of the case, the submission of the appellant and the AO's observations. The issue involved in the present case has already been decided by the CIT(A)-II, Baroda in Appeal No.CAB/II-343/13-14 vide order dated 17.07.2014 for AY 2011-12 in appellant's own case. The AO has also mentioned this appellate order in his assessment order. Hence, following the appellate order for AY 2011-12, the AO is directed to tax the peak credit Rs.12,05,000/- of the cash deposits made in the undisclosed bank account of the appellant with IDBI Bank during the FY 2009-10.

5. As a result, the appeal is partly allowed”

5. Before us, the Id.counsel for the assessee was unable to controvert the factual finding recorded by both the Revenue authorities. The Id.DR on the other hand contended that order of the Id.CIT(A) in the Asstt.Year 2011-12 was not challenged by the assessee in further appeal, therefore, in a way, the assessee has accepted the stand of the AO. He was not having sufficient agriculture income out of which this could be stated that these deposits have been made.

6. On due consideration of the order of the Id.CIT(A), we do not find any merit in this appeal, because except making a bald statement that source of deposits is from family members, who have agriculture income, the assessee failed to produce any material to substantiate this

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statement. In view of the above discussion, appeal of the assessee is dismissed.

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

Pronounced in the Open Court on 7th March, 2019.

**Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

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