

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 4958/Del/2018  
Assessment Year 2015-16

Nand Kumar Taneja C-1/7, Vasant Vihar, New Delhi Pin-110 057	Vs.	ITO, Ward-33(2) New Delhi PAN ABCPT8362M
<b>(Appellant)</b>		<b>(Respondent)</b>

ITA No. 4959/Del/2018  
Assessment Year 2015-16

Nita Taneja, C-1/7, Vasant Vihar, New Delhi Pin 110 057	Vs.	ITO, Ward-33(2)] New Delhi PAN ADDPT6745K
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by:	Shri Shashank Sharma, Adv. & Shri Saurav Sood, Adv.
Department by :	Shri S.L. Anuragi, Sr. DR
Date of Hearing	07/01/2019
Date of pronouncement	29/03/2019

**ORDER**

The aforesaid appeals have been filed by the above named assesses against separate impugned orders of even date, 4.6.2018 passed by Ld. CIT(Appeals) 11, New Delhi for the quantum of assessment passed u/s 143(3) for the assessment year 2015-16. Since issues involved in both the appeals are common arising out of

identical set of facts, therefore, same are heard together and have been disposed of by way of this consolidated order.

2. In the case of Shri Nand Kumar Taneja, assessee has challenged addition of Rs. 24,72,000/- made u/s 69A; and in the case of Nita Taneja, she has challenged similar addition of Rs. 17,45,000/-. Both the assesses are individual and senior citizen aged about 70 years and were regularly assessed to tax, on income from salary, income from house property and interest income. Shri Nand Kumar Taneja had filed his return of income on 9.7.2016 declaring total income of Rs. 10,22,820/-; and Smt. Nita Taneja filed his return of income of Rs. 19,20,000/- her return filed on 30.4.2016. Both the cases were selected for 'Limited Scrutiny' for the following reasons:-

Reason Code	Reason Description	Issue
TX01.06	Weather tax return file after 07.11.2016 & cash deposit reported in SFT14	Whether cash deposit has been made from disclosed sources

3. Both the Assessees were required to furnish details of cash deposits in the bank account and also to furnish wealth tax returns for the last two years; reasons for withdrawal from various banks and thereafter re-depositing the same alongwith the reasons to justify the huge cash-in-hand as on 31.3.2015. In response, it was submitted that both of them are senior citizen suffering from various diseases and ailment for which they have to go for regular medical check up to the hospital, clinic etc. Due to this reason they cannot carry cheque for getting the medical treatment done and therefore, they had to keep huge liquidity in cash withdrawn from the bank. Further their entire income is received through banking channels and nothing is in cash.

The assessee also filed statement of affairs for the last three years and cash flow chart. The details of computation of cash in hand in the case of Shri Nand Kumar Taneja were given as under:-

F.Y	Opening cash	Cash withdrawal	Cash deposited	Cash expenditures	Closing cash in hand	Increase in cash in hand
2013-14	1023735	3251000	2995000	365946	913789	-109946
2014-15	913789	4764000	1332000	960000	3385789	+2472000
2015-16	3385789	3824537	766000	213000	6231326	+2845537

3.1 Similarly in the case of Smt. Nita Taneja, cash in hand position was given as under :-

F.Y	Opening cash	Cash withdrawal	Cash deposited	Cash expenditures	Closing cash in hand	Increase in cash in hand
2013-14	310924	987000	1052000	120000	125924	-185000
2014-15	125924	2196000	253000	198000	1870924	1745000
2015-16	1870924	2121500	591550	204000	3196874	1325950

3.2 Apart from that, details of opening cash in hand as on 1.4.2014 and closing cash in hand as on 31<sup>st</sup> March, 2015 was also given. Ld. AO instead of examining the cash disclosed by the assessee, observed that, why anyone will keep so much cash with him/her; and as a senior citizen it would be prudent for them to keep money at bank rather than at home in form of cash which would be vulnerable to theft/burglary. He also noted the assessee had a credit card issued in their names and were also having Over Draft account which was having negative balance. Thus, he inferred that a prudent man would deposit cash in hand to save interest. He has noted that Shri Nand Kumar has made cash deposit of Rs. 42,50,000/- during the period of demonetization and Smt. Nita Taneja had deposited sum of Rs. 37,69,000/- in her bank account in the same period. Thus, he

inferred that assessee has manipulated the cash-in-hand in order to justify the cash deposits and accordingly, he made addition on account of increase in cash in hand of Rs. 24,72,000/- in the hands of Shri Nand Kumar Taneja and Rs. 17,45,000/- in the hands of Smt. Nita Taneja u/s 69A.

4. Ld. CIT(A) in both the cases has held that, assessee has prepared a cash flow statement in order to justify the source of cash deposit and has failed to explain the reason why such a huge interest in the OD account has been paid when large amount of cash in hand was available. Further, assessee failed to substantiate the cash withdrawal from the bank account and cash in hand. On this ground he has confirmed the said additions.

5. After hearing both the parties and on perusal of the reasoning given in the impugned order as well as material referred to before me at the time of hearing, I find that entire addition has been made on account of disbelieving the cash-in-hand recorded in books of accounts u/s 69A. The deeming fiction u/s 69A can be invoked, where in any financial year assessee is found to be the owner of any money, bullion, jewellery or other valuable articles and such money, bullion, jewellery or valuable articles **is not recorded in the books of accounts** and the **source is not explained by the assessee**. Here in this case, there is no dispute with regard to the fact that the assessee has been filing the income tax return along with the balance sheets, wherein source of income and cash has been disclosed and recorded. Hence in such a situation it is unfathomable as how provision of 69A can be invoked. For instance, right from the financial year 2013-14 to 2015-16, the balance sheets of the respective assessees reflect huge cash-in-hand available with them, which is evident from the following details :-

<b>Cash in hand as on:</b>	<b>31.3.2014</b>	<b>31.3.2015</b>	<b>31.3.2016</b>
Sh. Nand Kumar Taneja:	Rs. 9,13,789/-	Rs.33,85,789/-	Rs. 62,31,326
Smt. Nita Taneja:	RS. 1,25,924/-	Rs. 18,17,925/-	RS. 25,000/-

6. Apart from that, the details of; opening cash, cash withdrawal, cash deposited, cash expenditure; closing cash in hand and increase cash in hand, in case of both the assesseees were given before the authorities below, which has been incorporated above in para 3 and 3.1. No discrepancy or any inquiry has been done by Assessing Officer to disapprove the cash disclosed in the books of account and balance sheet. The sole reason for disbelieving the assessee's explanation is that, *firstly*, no prudent person after withdrawing the cash will keep at home; and *secondly*, if there was an OD account having negative balance on which interest is being charged, then there was no need to keep such huge cash in hand at home. Such reasoning *dehors* any contrary material on record that the cash disclosed in the books of accounts has been invested somewhere else, then on mere surmise assessee's explanation cannot be discarded. If assesseees have genuine sources of income which are received through banking channels, out of which cash has been withdrawn and have been disclosed in the income tax return and in the balance sheet as cash-in-hand, then I am unable to apprehend how the provision of section 69A is applicable. Because the section can only be invoked where in any financial year the assessee is found to be the owner of any money, etc., which has not been recorded in the books of accounts and assessee offers no explanation. Here in these cases, Assessee's cash in hand duly stands recorded and source has been explained from the income deposited in the bank account and withdrawal, then in my

opinion deeming provision of section 69A cannot be invoked. The reasoning given by the AO and Ld. CIT (A) is vague and based on surmise as to what a prudent person should have done. Once assessee has explained that being of senior citizen they have maintained such liquidity of cash out of their own disclosed income with them for certain contingencies, then without any material to controvert such an explanation, addition cannot be sustained. Assessee before the lower authorities have filed following documents to substantiate the cash in hand with them:-

- a. Income Tax Return with computation of total income.
- b. Balance Sheets for FY 2013-14, 2014-15 and FY 2015-16.
- c. Comparative Chart of cash movement FY 2013-14, 2014-15 and FY 2015-16.
- d. Cash book maintained by the assessee.
- e. Kotak Mahindra Bank Statement bearing A/c No. 6311509485
- f. Standard Chartered Bank: Statement of account.
- g. Bank: Book of Kotak Mahindra Bank.
- h. Bank Book of Standard Chartered Bank.
- i. Copy of all medical treatment documents.

7. All these documents have neither been rebutted nor there is any finding that cash-in-hand disclosed in the balance sheet was beyond the scope of their income or are not substantiated from the bank account. Simply because after the period of demonetization, that is, 08.11.2016, certain amount of cash has been deposited in the bank account, it does not mean that the cash-in-hand as on 31.3.2015 and 31.03.2016, duly shown in the balance sheet and disclosed to the department in the respective income tax return filed much earlier, is

unexplained. Accordingly, in view of the above reasoning, addition made by the AO and sustained by the Ld. CIT (A) is directed to be deleted.

8. In the result both the appeals of the assessee are allowed.

Order pronounced in the open court on 29<sup>th</sup> March, 2019.

sd/-

**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Dated: 29 /03/2019

***Veena***

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi