

आयकर अपील अाधिकरण, राजकोट ँयायपीठ, राजकोट ।
IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

**BEFORE SHRI RAJPAL YADAV,
HON'BLE JUDICIAL MEMBER
AND
SHRI WASEEM AHMED
HON'BLE ACCOUNTANT MEMBER**

ITA No.346/RJT/2017

अध्यायण वर्षा Asstt. Year: 2013-14

Shri Kalpeshbhai Kiritbhai Kapuria G-I, Jay Rajshri Complex Canal Road, Opp: National Textile Rajkot.	Vs.	ITO, Ward-2(2)(3) Rajkot.
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(Applicant)		(Responent)
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Assessee by :	Shri V.I. Desai, AR
Revenue by :	Shri Anil Kumar Das, DR

सुनवाई का ताराख/Date of Hearing : 19/09/2019
घोषणा का ताराख /Date of Pronouncement: 19/09/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of Id.CIT(A)-2, Rajkot dated 25.7.2017.

2. Solitary grievance of the assessee is that the Id.CIT(A) has erred in confirming addition of Rs.9,19,982/- being opening cash balance as alleged unaccounted income.

3. Brief facts of the case are that the assessee has filed his return of income on 4.2.2014 declaring total income at Rs.1,95,400/-. The case of the

assessee was selected for scrutiny assessment through CASS and issued notice under section 143(2) of the Act. During the scrutiny assessment, it was noticed by the AO that the assessee had purchased a Skoda car worth Rs.10,80,550/- from Torque Automotive Pvt. Ltd. The Id.AO doubted capacity of the assessee to purchase such vehicle, because assessee has only salary income of Rs.1,95,400/-. The Id.AO show caused the assessee to explain the details and source of payment of purchase of the said vehicle. It was explained by the assessee that fund was generated out of savings made from the salary income plus agriculture income. Besides, he has also taken loan from his father Shri K.J. Kapuria of Rs.2,50,000/- and from his father-in-law Shri Ukabhai Ravjibhai Viradia of Rs.95,000/-. The Id.AO found the explanation of the assessee not satisfactory and made an addition of Rs.9,19,982/-. Aggrieved assessee, went in appeal before the Id.CIT(A) who confirmed the addition made by the AO. Assessee is now before the Tribunal.

4. Before us, the Id.counsel for the assessee reiterated submissions made before the Revenue authorities. He also filed copy of cash book for the period 2011 and 2012 to 31.3.2012 and 2012-2013. The opening cash balance as on 1.4.2011 has been shown at Rs.4,73,182/- and closing balance at Rs.9,19,982/-, whereas closing balance of cash as on 31.3.2013 was at Rs.2,48,005/-. Book entries also show repayment of loans by the assessee on various dates to Shri K.J. Kapuriya and Ukabhai Ravjibhai Viradia. He also produced copy of form no.7/12 showing agriculture land holding by the assessee and copy of sales bills agriculture produce. The Id.counsel for the assessee submitted that all these credence would show that the assessee has explained the source of generation of fund for purchase of the said Skoda vehicle. He also submitted that it is not unusual practice to take loan from the

family members and often elders give loan or in kind to their children out of their savings aggregated over the years. Therefore, Id.Revenue authorities have not considered the facts in right spirit, and therefore, their orders deserve to be set aside. On the other hand, the Id.DR relied upon the orders of the Revenue authorities. He further submitted that the assessee is simply a salaried person and not a man of means to purchase such high valued vehicle. The Revenue authorities have justified in making such addition.

5. We have considered rival submissions and gone through the record carefully. We are of the view that considering the explanation of the assessee and details furnished by the assessee, as stated hereinabove, we do not find falsehood in the claim of the assessee. Assessee has stated that he has opening cash balance of Rs.3,24,982 as on 1.4.2011 plus loan of Rs.3,45,000/- taken from the close relatives. Availment of loan from the father and father-in-law by the assessee has not been disputed by the Revenue, rather Revenue authorities are talking legality of giving loan in cash by the relatives and implication of Sections 269SS and 269T of the Act. That is a different proceedings. It is common practice in Indian family system to help each other without adhering to some procedural legal formalities. If the Revenue authorities have doubted the genuineness of loan taken by the assessee, then they should have enquired into and called for explanation from the said Shri K.J.Kapuria and Shri Ukabbhai Ravjibhai Viradia. By not doing so, the Revenue authorities cannot simply reject such claim of the assessee. This apart, assessee has produced copy of Form No.7/12 and some bills for sale of groundnut cultivated in his agriculture land. This aspect has also not been considered by the Revenue in right perspective while making addition. We are not convinced with outright rejection of claim of the assessee by the Revenue authorities on this issue, which we reverse for the reasons noted

herein. Thus, we allow the appeal of the assessee and delete the impugned addition.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the Court on 19th September, 2019 at Rajkot.

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER