

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, 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.24/RJT/2017
निर्धारण वर्ष/ Asstt. Year: 2012-13

Vijaybhai T. Dholakiya At. Kamlapur, Tal. Gondal Dist. Rajkot	Vs.	ITO, Ward-2(1)(2) Rajkot.
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(Applicant)		(Responent)
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Assessee by :	Written submissions
Revenue by :	Shri Anil Kumar Das, DR

सुनवाई की तारीख/Date of Hearing : 20/09/2019
घोषणा की तारीख /Date of Pronouncement: 03/10/2019

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 8.11.2016 passed for the Asstt.Year 2012-13.

2. None appeared on behalf of the assessee at the time of hearing. Therefore, we proceed to dispose of appeal *ex parte qua* assessee-appellant after hearing the Id.DR and considering the material available on record.

3. Grounds of appeal taken by the assessee are not in consonance with Rule 8 of the Income Tax (Appellate Tribunal) Rules, 1963 - they are descriptive and argumentative in nature. In brief, sole grievance of the

assessee is that the Id.CIT(A) has erred in confirming addition of Rs.2,76,750/- on account of cash deposits as unaccounted income.

4. Brief facts of the case are that the assessee is an individual and engaged in share trading. He has not filed return of income for the Assstt.Year 2012-13. On verification of CIB data (MCDX), it was revealed to the AO that the assessee has entered into a transaction of Rs.33,21,63,460/- but not offered for tax. Notices issued to the assessee to explain the reason for non-filing of the return and transaction details, yielded no result. Therefore, the Id.AO proceeded to make assessment under section 147 of the Act. The Id.AO also revealed to the AO that the assessee was incurring overall loss from the speculation business during the financial year 2011-12, however, no return was filed. From the bank statement of SBI, Jawahar Chowk Branch, Rajkot, it was noticed by the AO that assessee had deposited cash during the year aggregating to Rs.2,76,750/. This was explained by the assessee as loan taken from his mother and father, who engaged in agriculture activities. The Id.AO did not accept this explanation of the assessee and treated the cash deposits as unaccounted income and added to the total income of the assessee. The Id.CIT(A) confirmed the action of the AO. Assessee is now before the Tribunal.

5. Before us, assessee was represented by, Shri D.R. Adhir, but has not put appearance at the time hearing. However, he filed a written submissions. It is pleaded in the written submissions that the cash deposits appearing in the bank account are borrowal from his father and mother. His father is a pensioner from the State Government and having income from pension. His mother has agriculture land, from that she is cultivating crops and having income from sale of crops. Assessee has filed form no.7/12 and copies of bills for sale of agriculture products. It is pleaded that the Id.AO has not

made any effort to inquire into the details submitted by the assessee and straight way made addition without considering the evidence produced by the assessee. It is, therefore, pleaded that addition by the Revenue is without any justification and the same is liable to be cancelled.

6. We have heard the Id.DR, and gone through the written submissions filed by the assessee. We find that impugned addition of Rs.2,76,750/- was made by the Id.Revenue authorities on the basis of inadequacy of details submitted by the assessee to prove cash deposits made in the bank. As it merges from the record, assessee's father is having pension income from the State Government, and mother is also having agriculture income. The Id.Revenue has not disputed this aspect, i.e. capacity of parents to give cash to the assessee. Assessee has filed Form No.7/12 and bills showing sale of agriculture produce to prove his case. It is not unusual practice in India to give financial support to children by the parents, which, if seen in the context of fact noted by the Revenue that assessee was deriving overall loss from the speculation business during the financial year 2011-12, then claim of the assessee cannot be brushed aside. The details submitted by the assessee have not been rightly appreciated by the Revenue authorities. Before rejecting the claim of the assessee, the authorities below ought to have called for further information from his parents. The Id.AO has not carried out such exercise, and made outright addition. We are not convinced by the action of the Revenue in summarily rejecting the claim of the assessee. We cancel the addition and allow the ground of appeal of the assessee.

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

Order pronounced in the Court on 3rd October, 2019 at Ahmedabad.

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad; Dated 03/10/2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER