

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' DELHI**

BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT

ITA NO. 8000/DEL/2018

AY : 2011-12

Shri Kehar Singh, C/o M/s RRA TAXINDIA, D-28, South Extension, Part-I, New Delhi-110049 (PAN: CPSPS0058H)	vs	Income Tax Officer, Ward-2, Karnal.
(Appellant)		(Respondent)

Appellant by: Shri Somil Aggarwal, Advocate
Dr. Rakesh Gupta, Advocate

Respondent by: Ms Ekta Vishnoi, Sr. DR

Date of hearing : 24.09.2019

Date of pronouncement: 31.10.2019

ORDER

This appeal has been preferred by the assessee against the order of the learned Commissioner of Income Tax(A), Karnal dated 25.10.2018 for assessment year 2011-12.

2. In this appeal, the assessee has raised multiple grounds of appeal but the solitary dispute is with regard to an addition of Rs. 22,14,500/- made by the Assessing Officer as unexplained income in terms of section 69A of the Income Tax Act, 1961 (hereinafter called 'the Act').

3. In brief, the relevant facts are that during the course of impugned assessment, the Assessing Officer required the assessee to explain the source of cash deposits in various savings bank accounts maintained by the assessee. The discussion in the assessment order reveals that the Assessing Officer was not satisfied with the explanation furnished by the assessee qua the cash deposits in the bank accounts. The explanation of the assessee was threefold; firstly, the assessee had pointed out that he had sold some agricultural land before the dates of cash deposits in bank accounts and, the deposits were out of such sale proceeds. Secondly, the assessee asserted that he had sold agricultural produce in cash and some of the cash deposits were made out of such proceeds, and thirdly, the assessee asserted that he had made cash withdrawals from one bank and later deposited a part of such withdrawals either in the account maintained with the same bank and/or with other banks. The Assessing Officer partly accepted the explanation. However, according to the Assessing Officer, the withdrawal of substantial amounts on various dates were for a specific purpose and that it is unusual to make withdrawals and thereafter deposit the same in some other bank account. The Assessing Officer held that if the credit for such withdrawals was to be allowed, the amounts and dates should match. He, therefore, did not allow any credit to the assessee in this regard. Be that as it may, the Assessing Officer at page 2 of the assessment order made a Tabulation of withdrawals and deposits in various bank accounts for the period 4.5.2010 to 30.04.2011 and culled out the peak balance which was Rs. 22,14,500/-, and

treated the same as unexplained money u/s 69A of the Act. The Commissioner of Income Tax(A) has since sustained the action of the Assessing Officer on a similar ground against which the assessee is in appeal before the Tribunal.

4. Before me, the learned representative for the assessee referred to the Tabulation contained in page 2 of the assessment order and pointed out that the first four deposits of Rs. 49,500/-, Rs. 50,000/-, Rs. 50,000/- and Rs. 10,90,000/- made on 4.5.2010, 5.5.2010, 6.5.2010 and 10.5.2010 respectively were clearly out of the cash available with the assessee out of the proceeds of agricultural land sold for Rs. 12.76 lakh on 29.04.2010 and proceeds of agricultural produce sold for Rs. 1,50,000 on 30.4.2010. In this context, my attention has also been invited to pages 50-56 and 41-42 of the Paper Book, wherein is placed the evidence for sale of agricultural land and sale of agricultural produce respectively. It has also been pointed out that so far as the cash deposit of Rs. 3,50,000/- on 19.06.2010 is concerned, the same was made out of withdrawals of Rs. 2 lakh made on 22.5.2010 from the account maintained with Union Bank of India and in support, reference has been invited to page 37 of the Paper Book. A similar deposit of Rs. 5 lakh contained in the Tabulation on 3.7.2010 is claimed to be made out of cash-in-hand available and Rs. 1 lakh of cash withdrawn from Allahabad Bank dated 24.06.2010. In support, reference has been invited to a copy of the bank statement of Bank of Allahabad placed at page 43-45 of the Paper Book. To similar effect is the

argument of the assessee with regard to the deposit of Rs. 5 lakh stated in the Tabulation to be made on 29.7.2010 which is claimed to have been made out of the available cash-in-hand and withdrawal of Rs. 75,000/- made from Union Bank of India. Here also, my attention was invited to page no. 35-37 of the Paper Book wherein is placed the relevant statement of Union Bank of India in this regard.

5. On the basis of the aforesaid assertion, the learned representative of the assessee pointed out that the unexplained amount of deposit of Rs. 22,14,500/- treated by the Assessing Officer are indeed fully explainable and addition has been wrongly sustained by the C.I.T.(A).

6. On the other hand, the learned DR appearing for the Revenue has primarily relied on the orders of the authorities below and pointed out that the aspects pointed out by the learned AR would require verification.

7. I have carefully considered the rival submissions. Ostensibly, in the instant case, the discussion in the order of the lower authorities clearly shows that the assessee's explanation for the various cash deposits in his multiple savings bank accounts was either out of the sale of agricultural land or sale of agricultural produce or re-deposit of the cash withdrawals made earlier. The Assessing Officer did not allow any benefit of the explanation offered by the assessee, because according to him, there ought to be a co-relation between the withdrawals and the subsequent deposits. While in principle, I do not find any

quarrel with the stand of the Assessing Officer, however, in terms of the explanations which have been specifically brought out by the assessee before me and on the basis of the material placed in the Paper Book, proximity between the dates of availability of cash from the sources explained by the assessee i.e. sale of agricultural land, sale of agricultural produce, cash withdrawals vis-a-vis the dates of deposits, which have been culled out by the Assessing Officer in page 2 of the assessment order, is quite apparent. For instance, the deposits of Rs. 49,500/-, Rs. 50,000, Rs. 50,000/- and Rs. 10,90,000/- made on 4.5.2010, 5.5.2010, 6.5.2010 and 10.5.2010 respectively bear proximity to the date of the stated source of cash availability, namely, sale of agricultural land of Rs. 12.76 lacs on 29.04.2010 and sale of agricultural produce for Rs. 1,50,000/- on 30.4.2010. Thus, even going by the reasoning of the Assessing Officer, the explanation of the assessee has been merely glossed over by him without appreciating the factual position. In my considered opinion, it would be in the fitness of things that the explanations of the assessee, which have been succinctly brought out by the appellant, deserve to be appropriately verified and appreciated. Since this is an aspect which requires appreciation of factual affairs, the Assessing Officer is directed to do so. Needless to say, the Assessing Officer shall give a reasonable opportunity of being heard to the assessee before passing an order afresh on this limited aspect as per law. In case the Assessing Officer finds that the dates of availability of source of cash with the assessee are quite proximate to the subsequent dates of

deposits, he shall delete the addition to that extent; and, if the Assessing Officer is not so satisfied, he shall be at liberty to pass such order as deemed fit in accordance with law.

8. Thus, in the result, for statistical purposes, the assessee's appeal stands allowed as above.

Order pronounced in the open court on 31.10.19.

Sd/-

(G.S. PANNU)
VICE PRESIDENT

DATED: 31st OCTOBER, 2019
'GS'

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

By Order

Asstt. Registrar
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	