

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

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

**ITA NO. 83/DEL/2019  
AY : 2013-14**

Shri Deepanker Mahajan, C/o Chaurasia & Associates, Advocates, A-62, Navkunj Apartments, 87, I.P. Extension, New Dlehi-110092 (PAN: ANBPM5236G)	vs	ITO, Ward 70(3), New Delhi.
(Appellant)		(Respondent)

Appellant by: Ms Rano Jain, Advocate

Shri Venketesh Chaurasia, Advocate

Respondent by: Ms Ekta Vishnoi, Sr. DR

Date of hearing : 25.09.2019

Date of pronouncement: 31.10.2019

**ORDER**

This appeal is preferred by the assessee against the order of the Id. Commissioner of Income Tax(A)-36, New Delhi dated 28.09.2018 and pertains to assessment year 2013-14.

2. In this appeal, the assessee has disputed the addition of Rs. 8,39,748/- sustained by the Commissioner of Income Tax(A) as unexplained cash deposits in the bank account as against addition of Rs. 29,40,997/- made by the Assessing Officer as income from undisclosed sources. The primary grievance of the assessee is that the addition partly sustained by the Commissioner of Income Tax(A) is also unjustified inasmuch as the assessee has adequate

sources to explain the amount of Rs. 8,39,748/- sustained by the Commissioner of Income Tax(A).

3. In this context, the learned representative for the assessee pointed out that the addition made by the Assessing Officer was without reference to any particular deposit whereas before the Commissioner of Income Tax(A), the assessee had duly furnished the cash flow statements which justified the various deposits in the bank accounts. The learned representative for the assessee pointed out that it is not a case where formal books of accounts are maintained and that neither the Assessing Officer nor the Commissioner of Income Tax(A) has made any specific adverse finding with regard to the cash flow statement prepared by the assessee, which justified the deposits in the bank account. Be that as it may, in the course of hearing, the learned representative for the assessee referred to the specific findings of the Commissioner of Income Tax(A) contained in para 4.3.4.7 of the order to point out that the addition of Rs. 8,39,748/- is primarily on account of non-acceptance of the plea of the assessee regarding gift received during the instant year of Rs. 1,84,200/- and the availability of cash-in-hand at the beginning of the year for the purposes of explaining the addition. In this context, the learned representative referred to a Tabulation which compiled a summary of cash flow statements, to the extent accepted by the Commissioner of Income Tax(A). As per this Tabulation, it is sought to be pointed out that as per the assessee, there was an opening cash-in-

hand as on 1.4.2012 of Rs. 1,477,892/- while the Commissioner of Income Tax(A) has merely given credit for Rs. 7,78,929/- (erroneously typed as 01.04.2013 in para 4.3.4.7). The learned representative pointed out that the balance of Rs. 7,00,963/- has not been considered by the Commissioner of Income Tax(A) without assigning any reasons. The learned representative referred to para 4.3.4.7 of the C.I.T.(A)'s order to point out that the Tabulation made therein regarding the withdrawals and cash deposits from 31.03.2009 onwards is not disputed but while giving credit of the cash availability as on 1.4.2012, the same has been allowed short by Rs. 7,00,963/-.

4. On the aforesaid aspect, in my considered opinion, there is no plausible reason with the Commissioner of Income Tax(A) not to allow credit to the assessee on account of availability of cash as on 1.4.2012 by a further sum of Rs. 7,00,963/- . Even in the course of hearing, the learned DR appearing for the Revenue has not referred to any cogent material to support the case, except making a generalised observation regarding the non-maintenance of formal books of account. The fact that the assessee is not maintaining books of account is not material for the present because what is being evaluated at the present stage is the manner in which the Commissioner of Income Tax(A) has computed the addition. Notably, the Commissioner of Income Tax(A) has considered the withdrawals and deposits in the bank accounts of the assessee since 31.03.2009 onwards. It is in this context that the argument of the learned

representative of the assessee with respect to availability of cash as on 1.4.2012 is to be appreciated. Thus, to the aforesaid extent, I direct the Assessing Officer to modify the addition and, accordingly, the assessee gets a relief of Rs. 7,00,963/-. The only other aspect which has been argued before me is with regard to the benefit of the gifts received during the year of Rs. 1,84,200/-, which has been denied by the Commissioner of Income Tax(A) on the ground that no details have been filed with regard to the same. I find that the aforesaid position canvassed by the Commissioner of Income Tax(A) continues to prevail even before the Tribunal and, therefore, in the absence of any details, the claim has been rightly denied by the Commissioner of Income Tax(A), which I hereby endorse.

5. In the result, the assessee partly succeeds in this appeal.

Order pronounced in the open court on 31.10.2019.

Sd/-

**(G.S. PANNU)**  
**VICE PRESIDENT**

**DATED: 31<sup>st</sup> 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	