

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI

BEFORE MS. SUSHMA CHOWLA, JUDICIAL MEMBER
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 837/DEL/2017
[A.Y 2013-14]

Shri Giriraj Singh Jindal
House No. 535, Sector - 14
Faridabad, Haryana

Vs. The Dy. C.I.T
Central Circle - II
Faridabad

PAN: AGUPJ 5254 B

(Applicant)

(Respondent)

Assessee By : Shri Somil Agarwal, Adv

Department By : Shri A.K. Saroha, CIT -DR

Date of Hearing : 19.12.2019

Date of Pronouncement : 31.12.2019

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - Karnal dated 21.12.2016 pertaining to assessment year 2013-14.

2. The substantive grievances of the assessee read as under:

1. "That the Ld. Commissioner of Income-tax (Appeals) erred on facts and in law and on facts in allowing part relief to the extent of Rs. 1 lakhs out of total additional made by the Assessing Officer of Rs. 4,50,000/-u/s 69A of the Act on account of cash found during the search.

1.1 That in any case and in any view of the matter, action of the Id. CIT(A) in confirming the action of the Assessing Officer in making addition of Rs. 3,50,000/- is bad in law and against the facts and circumstances of the case. "

3. Briefly stated, the facts of the case are that search was conducted at the residential as well as business premises of M/s SRS Group on 09.05.2012. At the time of search operation, an amount of Rs. 16.01 lakhs was found from the residential premises of the assessee. The authorised officer put specific question and the same is as under:

Q. 18 On physical search of the residential premises No.535, Sector-14, Faridabad a total cash amounting to Rs. 16,10,100/- has been found. Break up of which is as under:

(i) Cash found from bedroom of Gomati Devi Jindal &

G.S Jindal Rs. 4,71,900/-

(ii) Cash received from Sunil Jindal & Jindal bedroom

Rs. 6,33,000/-

(iii) Cash received from Anil Jindal & Mrs. Shashi

Jindal bedroom Rs. 3,83,900/-

(iv) Cash received from Vinod Jindal & Mrs. Ritu Jindal

bedroom Rs. 1,21,300/-

Please consult all the above family members and explain the sources of this cash.

Ans. We withdraw Rs. 40,000/- each member (4 members) per month for house hold expenses and this amount is the accumulation of saving from household expenses.

Q. 19 Please give me the break up of monthly expenditure incurred by all your family members?

Rs. 7,500/- on milk

Rs. 10,000/- on vegetables

Rs. 15,000/- on grocery

Rs. 5,000/- on servant salary

Rs, 15,000/- on petrol

Rs, 5,000/- on miscellaneous exp.

Rs. 5,000/- on medicines

Rs. 10,000/- on clothes

Total Rs.72,000/- +500/-

i) Q.2 Please provide the documentary evidence in support residence?

ii) Arts. Right now, I do not have any evidence. I will provide later on..”

4. During the course of scrutiny assessment proceedings, the assessee was once again asked to explain the source of cash in hand. The assessee furnished details of cash of each family member and the source thereof as under:

5. No	Name	Cash found in	Source of Cash	Amount	Dated	Supporting
1	Anil Jindal	175.966	Bank With drawal	200,000	20.04.12	Copy of Cash Statement/ Bank Statement
2	Sunil Jindal	76.953	Bank With drawal	100.000	20.04.12	Copy of Cash Statement-' Bank Statement

3.	Vmod Jindal	93533	Bank With drawal	100000 L	20.04 12	Copy of Cash Statement/ Bank Statement
4.	G.S Jindal	176069	Bank With drawal	1,00,000	20.04.12	Copy of Cash Statements Bank Statement
5			Bank With drawal	200.000	29 02.12	Copy of Cash Statement/ Bank Statement
6	Shashi Jindal	79214	Bank With drawal	200.000	29.02. 2	Copy of Cash Statement- Bank Statement
7	Rilu Jindal	220589	Bank With drawal	1,50,000	20.0412	Copy of Cash Statement - Bank Statement
			Bank With Drawal	100000	29.02.12	Copy of Cash Statement/ Bank Statement
7	Shalini Jindal	185498	Bank With drawal	200,000	20.04.12	Copy of Cash State mend Bank Statement
8.	Anil Jindal (HUF)	169887	Rental Income	1,60.888		Copy of cash book/ITR/ Computation of income
9	Prateek Jindal	4000	Savings			
10	Gomiti Devi	428391	Savings			

5. The Assessing Officer did not accept the details furnished by the assessee and was of the opinion that whatever submissions given by the assessee is nothing but an afterthought, and cannot be accepted and accordingly, out of total cash of Rs. 4,71,900/-, found from the bed room of Shri G.S. Jindal, addition of Rs. 4,50,000/- was made.

6. The assessee carried the matter before the Id. CIT(A) and contended that the assessee is 70 years old and his wife Smt. Gomati Devi is 69 years old and most of the cash belonged to his wife who has also submitted that Rs. 4,28,391/- was Stridhan that accumulated over 20-25 years. It was further brought to the notice of the Id. CIT(A) that there were cash withdrawals of Rs. 2 lakhs on 29.02.2012 and Rs. 1 lakh on 20.04.2012 and the same covers cash in hand.

7. After considering the facts and submissions, the Id. CIT(A) was of the opinion that the total Stridhan of the wife of the assessee, as claimed, cannot be accepted. However, explanation was accepted to the extent of Rs. 1 lakhs on account of Stridhan and addition of Rs. 3,50,000/- was sustained.

8. Before us, the ld. counsel for the assessee reiterated what has been stated before the lower authorities.

9. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

10. We have given thoughtful consideration to the orders of the authorities below. The undisputed facts are that during the course of search proceedings itself, the assessee has explained the break-up of cash in the name of his family members. Such break-up is exhibited elsewhere. The undisputed fact is that cash was found from the bedroom of the appellant and, therefore, it can be safely presumed that it was in joint possession of the assessee and his wife Smt. Gomati Devi. The possession of cash as Stridhan by Smt. Gomati Devi cannot be ruled out in the light of the customs prevailing in the society.

11. Moreover, the first appellate authority completely ignored the fact that there were cash withdrawals from the banks on two occasions amounting to Rs. 3 lakhs. Added to this, Stridhan of Smt. Gomati Devi at Rs. 4,28,391/- would suffice to explain the cash of Rs. 4,71,000/- Considering the afore-stated facts in totality, we do not find any merit

in the additions made by the Assessing Officer. We, accordingly, direct the Assessing Officer to delete the impugned additions.

24. In the result, the appeal of the assessee in ITA No. 837/DEL/2017 is allowed.

The order is pronounced in the open court on 31.12.2019.

Sd/-

**[SUSHMA CHOWLA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 31st December, 2019

VL/

Copy forwarded to:

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

Asst. 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	
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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	
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