

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND Ms. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No.839/Ahd/2016
Assessment Year: 2012-13**

Dushyant Manilal Pandya
01, Arvalli Society,
Nr. Paras Kerosin Pump,
Valasana Road,
At & Post: Idar,
Dist. Sabarkantha – 383 430.
[PAN – AKOPP 5443 N]
(Appellant)

vs. Income Tax Officer,
S.K. Ward – 2, Himmatnagar.

(Respondent)

Appellant by : Shri Tej Shah, A.R.
Respondent by : Shri L.P. Jain, Sr. D.R.

Date of hearing : 28.01.2020
Date of pronouncement : 30.01.2020

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER:

The instant appeal filed by the assessee is directed against the order dated 22.01.2016 passed by the Ld. CIT(A)-2, Ahmedabad, arising out of the order dated 30.01.2015 passed by the learned ITO, Ward-2, Himatnagar under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for assessment year 2012-13.

2. The appeal relates to confirmation of addition made by revenue to the tune of Rs.1,57,87,188/- under section 69 of the Act. It appears that the assessment was finalised by the ITO by making addition of Rs.2,83,70,370/- out of which Rs.1,57,87,188/- relates to the deposit of cash in bank accounts and the balance amount of Rs.1,22,73,500/- relates to the purchase of immovable property and the stamp duty expenses thereon. The learned CIT(A) in appeal restricted such addition only in respect of the cash deposited in the 4 accounts to the tune of Rs.1,57,87,188/-. Hence the instant appeal before us.

3. At the time of hearing of the instant appeal, the learned Advocate appearing for the assessee fairly submitted before us that he joins issue only in respect of the addition of Rs.48,50,000/- which was transferred from one savings Bank to another savings Bank account of the assessee. The details in respect of those accounts lying with HDFC bank being Account No.16991930000361, Axis Bank being Account No. 911010034403198 and Dena Bank being Account No. 033210033259 including the statements thereof being part of the paper book before us has been brought to our notice. It is the case of the assessee that the learned CIT(A) has erred in law and on facts in adding the entire credit entries including the total amount which has been transferred from these 2 accounts lying with HDFC Bank and Axis Bank to the account of the assessee lying with the Dena Bank to the tune of Rs.48,50,000/-. He, therefore, prays for exclusion of the said amount of Rs.48,50,000/-, which however has fairly not been objected by the learned Departmental Representative.

4. We have heard the rival submissions of the parties. The addition of Rs.1,57,87,188/- under section 69 of the Act in respect of the amount credited in the Bank account is in dispute. However, at the time of hearing, it is the contention on behalf of the assessee and fairly so that the assessee seeks relief to the extent of Rs.48,50,000/- in aggregate which sum represents the transfer of various amounts from one account to another maintained by the assessee. It is thus contended on behalf of the assessee that the amount which has already been considered as unexplained in one account cannot become unexplained yet again when transferred in other account for the purpose of invocation of section 69 of the Act. Documentary evidences were placed before us to demonstrate that an aggregate sum of Rs.48,50,000/- forms part of the remaining amount of addition and has been added yet again merely on account of shifting of the sums from one account to another. We find tangible merit in the case of the assessee for exclusion of Rs.48,50,000/- in aggregate out of the total addition of Rs.1,57,87,188/- made on this account of unexplained investment. In view of the direct evidences available on record, we direct the Assessing Officer to grant relief to the extent of Rs.48,50,000/- out of the additions made under section 69 of the Act. The remaining amount of addition under section 69 has remained uncontested before the Tribunal and, therefore, we decline to interfere with the order of learned CIT(A) on the remaining amounts.

5. In the result, assessee's appeal is partly allowed. Order pronounced in the open Court on this 30th day of January, 2020.

Sd/-
PRADIP KUMAR KEDIA
(Accountant Member)

Sd/-
Ms. MADHUMITA ROY
(Judicial Member)

Ahmedabad, the 30th day of January, 2020

PBN/*

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*