

आयकर अपील अाधिकरण, राजकोट ँयायपीठ, राजकोट ।
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
Ms MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 25/Rjt/2014
(नधाक्षण वष Assessment Year 2009-10)

Kusumben H. Vagadiya, Vokla Kantha, Kansara Chowk, Dhoraji.	बनाम/ Vs.	I.T.O, Ward-2(1), Rajkot.
ंथायी लेखा सं./जीआइआर सं./PAN/GIR No. : AEGPV4172A		
(अपीलाथा /Appellant)		(ंयथा / Respondent)

अपीलाथा ओर से / Appellant by :	Written Submission
ंयथा क ओर से/Respondent by :	Shri Suhas Mistry, Sr. D.R.

सुनवाई क ताराख / Date of Hearing	27/02/2020
घोषणा क ताराख /Date of Pronouncement	28/02/2020

आदेश / O R D E R

PER BENCH:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals)-III, Rajkot [Ld. CIT(A) in short] dated 20/11/2013 arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 20/12/2011 relevant to the Assessment Years (A.Y.) 2009-10.

2. The effective issue raised by the assessee is that the learned CIT (A) erred in treating the amount of cash deposit amounting to Rs. 16,05,500/- as unexplained cash credit under section 68 of the Act.

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3. The facts in brief are that the assessee in the present case is an individual and engaged in the business of trading of cotton under the name and style of M/s "Khedut Brothers". The assessee has also declared the agriculture income of Rs. 3,49,990.00 in her income tax return. The assessee during the year under consideration has deposited the sum of Rs. 16,05,500/- in the bank account maintained with Bank of Baroda bearing saving bank account No. 08620100003666 which was not disclosed in the income tax return. On question by the AO the assessee explained that such income represents the gift received from the brothers, past saving from the agricultural operations. However the AO did not believe the contention of the assessee as it was without the supporting evidence. Accordingly the AO treated the same as unexplained cash credit under section 68 of the Act and added to the total income of the assessee.

4. Aggrieved assessee preferred an appeal to the learned CIT (A) who confirmed the order of the AO.

5. Being aggrieved by the order of the learned CIT (A) the assessee is in appeal before us.

6. The learned AR before us submitted as under:

5. In either case the matter appears to be fully covered by the decision of Hon. IT.A.T. Indore Bench in the case of Shri Rameshwar Chaudhry date of order 28-3-20 17 (copy enclosed with submission made on 29-11-2018) as mentioned at para. 14. page no .10 the Hon. Bench has been pleased to restore the matter to the Ld. A.O. for further verification. Even the most Hon. ITAT 'E' Bench Rajkot (present Bench) has also been kind enough to restore the matter for fresh adjudication in demanding circumstances in the case of Shri Ghelabhai Popatbhai Shingala (copy enclosed) If deemed fit the appeal of the assessee in the present case may also kindly be considered to restore to the Ld. A.O. before whom all-out efforts will be made to produce further evidence as he wish. In either case the matter may kindly be adjourn as prayed for.

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7. On the other hand the learned DR raised no objection if the matter is set aside to the file of the AO for fresh adjudication as per the provisions of law.

8. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the assessee has declared agriculture income of Rs. 3,49,990/- in the return of income which can be verified from the order of the assessment framed under section 143(3) of the Act. Accordingly, we find some force in the argument of the learned AR for the assessee that such income was disclosed out of the agricultural operations of the earlier areas. Accordingly, in the interest of justice and fair play we are of the view that the matter of the assessee needs reconsideration at the level of the AO as per the provisions of law. We also direct the assessee to produce the necessary evidences on which she wants to rely in support of her contention to justify the source of cash deposited in the impugned bank account. It is needless to mention that the assessee shall cooperate during the assessment proceedings. Accordingly, we set aside the issue to the file of the AO for fresh adjudication as per the provisions of law. Hence the ground of appeal of the assessee is allowed for the statistical purposes.

9. In the result, the appeal of the assessee is allowed for **statistical purposes.**

This Order pronounced in Open Court on 28/02/2020

**-Sd-
(MADHUMITA ROY)
JUDICIAL MEMBER**

**-Sd-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

Rajkot, Dated 28/02/2020
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