

**आयकर अपीलीय अधिकरण न्यायपीठ जोधपुर में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**JODHPUR BENCH, JODHPUR**

**माननीय श्री संदीप गोसाईं, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing Through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.114/Jodh/2019  
(निर्धारणवर्ष / Assessment Year: 2010-11)

<b>Juli Saxena</b> Poonamchand Gali Saifee Mohalla, Chotta Sarafa Neemuch, Madhya Pradesh-458 441	<b>बनाम/ Vs.</b>	<b>ACIT–Central Circle -2</b> <b>Udaipur</b> Rajasthan.
स्थायीलेखासं./जी आइ आर सं./PAN/GIR No. <b>ACDPS-6365-D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

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आयकर अपील सं./ I.T.A. No.115/Jodh/2019  
(निर्धारणवर्ष / Assessment Year: 2010-11)

<b>Kirti Saxena</b> Poonamchand Gali Saifee Mohalla, Chotta Sarafa Neemuch, Madhya Pradesh-458 441	<b>बनाम/ Vs.</b>	<b>ACIT–Central Circle -2</b> <b>Udaipur</b> Rajasthan.
स्थायीलेखासं./जी आइ आर सं./PAN/GIR No. <b>ACDPS-6365-D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri Amit Kothari (CA)- Ld. AR
<b>Revenue by</b>	:	Shri A.S. Yadav - Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	03/11/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	21/12/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member): -**

1. Facts as well as issue in both the captioned appeals are common and hence, the appeals are being disposed-off by way of this common order for the sake of convenience & brevity. For adjudication purpose, the facts of ITA No.114/Jodh/2019 are discussed.

2. This appeal by assessee for Assessment Year [in short referred to as 'AY'] 2010-11 contest the order of Ld. Commissioner of Income-Tax(Appeals)-2, Udaipur, [in short referred to as 'CIT(A)'], *Appeal No.10841/2017-18 dated 11/01/2019* on following effective grounds:-

1. On the facts and circumstances of the case the Appellant was deprived from opportunity of being heard. Appellant prays to submit further proof.
2. On the fact and circumstances of the case as well as in the impugned order of assessment passed by Central Circle-1 Udaipur resulting an addition of Rs.4,00,000/- is when considered in the light of the fact of the case, material on record, written submission and position of case is ab-initio void, illegal and cannot substantiate in the eye of law hence the addition so made deserved to be deleted.
3. The assessee denies his liability to charge any interest us 234B of the IT Act.
4. On the facts and circumstance of the case and in the law the learned AO erred in making addition U/s 69 on accounts of unexplained money amounting to Rs.4,00,000/- . The Appellant prays that the said addition be deleted.
5. That the appellant reserve his right to add, alter, amend or modify the grounds of appeal at the time of hearing.
6. On the facts and circumstances an amount of Rs.4,00,000/- should be received from Shri Jagdish Dhayma and I should produce copy of bank account of Sh. Jagdish Dhayama.
7. In such matters AO not giving any chance of hearing and dismissed the appeal itself.

As evident, the assessee is aggrieved by confirmation of addition u/s 69 for Rs.4 Lacs.

3. The impugned addition stem from an assessment framed u/s 143(3) r.w.s. 147 on 26/12/2018. Pursuant to receipt of certain

information in the course of search action In the case of Chetak Group, Nimbahera (Rajasthan), it transpired that one Shri Vikram Anjana was channelizing groups' unaccounted money through his proprietorship concern namely M/s U. B. investment. The said entity received bogus loans from various persons. Since the assessee had also advanced an amount of Rs.4 Lacs to M/s U.B.Investment, the case was reopened as per due process of law and the assessee was directed to explain the source of Rs.4 Lacs. However, in the absence of any satisfactory reply forthcoming from the assessee, the said amount was added to the income of the assessee. The assessee had advanced Rs. 4 Lacs though Cheque No.283369 but the same amount was transferred back to the bank account of the assessee on the same date.

4. Before Ld. CIT(A), the assessee sought to impress upon the fact that the amount so advanced was sourced from an earlier loan repaid by one Shri Jagdish Diama. However, the said plea was rejected since the purported bank certificate stated to be filed by the assessee was found missing. Accordingly, the additions were confirmed. Aggrieved, the assessee is in further appeal before us.

5. It is quite evident that the assessee has miserably failed to prove the source of advances. No supporting documents could be submitted by assessee during assessment proceedings as well as during appellate proceedings. However, keeping in view the fact that the assessee is an individual having meager income, we deem it fit to restore the matter back to the file of Ld. CIT(A) for re-adjudication after providing another opportunity of hearing to the

assessee. The assessee, in turn, is directed to substantiate the source of advances failing which Ld. CIT(A) shall be at liberty to proceed with adjudication on the basis of material on record.

6. Facts are similar in ITA No.115/Jodh/2019. Therefore, this matter would also stand restored back to the file of Ld. CIT(A) with similar directions.

7. Both the appeal stands allowed for statistical purposes.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal)  
Rules, 1963.*

**Sd/-**  
**(Sandeep Gosain)**  
न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21/12/2020  
Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि □ प्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जोधपुर / DR, ITAT, Jodhpur
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकर अपीलीय अधिकरण, जोधपुर / ITAT, Jodhpur.**