

आयकर अपीलिय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

BEFORE SHRI PAWAN SINGH, Hon'ble JUDICIAL MEMBER
AND Dr. ARJUN LAL SAINI, Hon'ble ACCOUNTANT MEMBER

(Virtual Hearing)

आ.अ.सं./I.T.A No.818/AHD/2014

निर्धारण वर्ष/Assessment Year: 2009-10

Shri Umeshkumar Ramdas Kapish, R Block 3 L, Lobby 3, Sherwood Estate, Near Mandir Gate, Narendrapur, Kolkata – 700103. [PAN: AIIPK 0174 B]	Vs .	The Income Tax Officer, Ward-3(1), Surat.
अपीलार्थी / Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओर से /Assessee by	None.
राजस्वकीओर से /Revenue by	Smt. Anupama Singla – Sr.DR

सुनवाई की तारीख/ Date of hearing:	09.02.2021
उद्घोषणा की तारीख/Pronouncement on:	09.02.2021

आदेश / O R D E R

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by Assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-IV, Surat dated 06.12.2013 for assessment year (AY) 2009-10. The sole ground of appeal raised by the assessee relates to addition of cash deposit of Rs.17,09,588/- in bank account as undisclosed income.
2. Brief facts of the case are that the assessee is an individual, filed his Return of Income for assessment year 2009-10 on 31.12.2009 declaring income of Rs.1,37,610/-. The case was selected for scrutiny. During the assessment, the Assessing

Officer, on the basis of AIR information noted that assessee has aggregate cash deposit of Rs.16,45,500/- in saving bank account maintained by assessee in ABN Amro Bank. On further enquiries with bank, it was revealed that assessee has deposit of Rs.35 lakhs (approximately) in the said bank account, which included a sum of Rs.16,45,000/- in cash. The assessee was asked to provide the Bank Accounts maintained by assessee. The assessee disclosed his bank account in HDFC Bank, Nagpur only. The Assessing Officer further noted that despite giving opportunity, the assessee not disclosed the said bank account in ABN Amro Bank. On further show cause as to why the amount deposited in ABN Amro Bank be not treated as income of assessee. The assessee explained that cash book for the period under consideration has been submitted and there is no negative cash balance on any day. The amounts have been withdrawn in cash from the saving bank account from ABN Amro Bank (later Royal Scotland bank 'RBS") and has been deposited into account of various days. The source of deposit in RBS was loan availed from HDFC Bank. The cash were deposited for clearance of ECS for loan from HDFC Bank. The Assessing Officer noted that source of withdrawal from saving bank account with ABN Amro Bank of Rs.13,63,725/- taken from

HDFC Bank on 21.03.2008. The total cash withdrawal from account of RBS is Rs.20.43 lakhs and deposits are only Rs.16.54 lakhs. The assessee made cash deposit of Rs.2.00 lakhs each on 24.07.2008 and on 31.07.2008, Rs.1.00 lakh on 08.09.2008 and Rs.1.5 lakhs on 12.09.2008 to give token amount to Indo Asia Machineries of Rs. 8.00 lakhs on 16.09.2008. Rs.5,70,000/- was withdrawn on 10.11.2008 out of receipt of Rs.8.00 lakhs from Indo Asia Machineries on 13.10.2008, Rs.2,80,000/- deposited on 24.02.2009 and again Rs.2,50,000/- on 25.02.2009 out of withdrawal of Rs.5,70,000/-. On seeking further explanation, the assessee explained that he was running a retail outlet in the name of 'Dirty Looks', which have no sufficient profit to meet the requirements of his family, so he discontinued his business and joined HDFC Life as an employee. The assessee further explained that withdrawal and deposits were due to reasons that assessee came across opportunity to invest, finally decided not to take risk in depositing the cash back in the bank. It was further explained that deposits were given to Indo Asia Machinery and to Shri Rajkumar Baid for making business with him, but the term and condition was not accepted. The amount was taken back. The assessee also explained that bank account maintained with RBS was

unaccounted but it was a mistake of not considering the interest received from saving account and offered the interest from RBS, SBI and HDFC for taxation. The assessee also stated that he file evidence of home loan from HDFC. The explanation furnished by assessee was not accepted by the Assessing Officer by taking view that assessee has not disclosed the account in RBS in his Return of Income or during the course of assessment or in the computation of income. The housing loan installment from account does not make a disclosed account as the assessee claimed that source of withdrawal from the account is the housing loan from HDFC Bank, however, no documentary evidence about the housing loan is furnished by assessee. The Assessing Officer treated the total credit in RBS bank as unaccounted income and made addition of Rs.17,04,500/- and addition of interest income of Rs.5,088/-.

3. Aggrieved by the additions, the assessee filed appeal before the Id.CIT(A), the Id.CIT(A) noted that similar submission as made before the Assessing Officer was made before him. The Id.CIT(A) after considering the submission of assessee and the material available on record held that interest income earned by assessee offered by assessee by admitting his mistake and deleted the addition of interest income. However, the addition

of Rs.17,04,500/- on account of cash deposit in RBS was confirmed, by taking view assessee has not been able to explain the deposit in bank account. Further aggrieved, the assessee has filed present appeal before this Tribunal.

4. The appeal came up on hearing on various occasions, however, on most of the occasions Shri Manish J. Shah Advocate sought adjournments on one pretext or the other. However, on 09.02.2011 Shri Manish J. Shah Advocate filed an application for his withdrawal his authority from the case. The learned Counsel orally explained that he tried to contact the assessee and the briefing Chartered Accountant, Shri S.R. Sumani & Co. The assessee is not in contact either with instructed Chartered Accountant or with him. The Authorised Representative further submits that he has already sent a registered letter to the assessee intimating about the withdrawal of his authority and intimating the next date of hearing on 09.02.2021 and that the said registered letter is returned back unserved. On the aforesaid ground, the Counsel sought his discharge from the proceedings.
5. Perusal of record shows that the Tribunal has sent notice to the assessee by way of registered post with AD for more than 10 occasions. However, on each and every occasion the registered notice return back unserved with remark by postal

authority as “Left”. Therefore, no useful purpose will serve for sending repeated notice at the address provided by assessee in Fom-36 (Appeal Form). In the aforesaid circumstances, we decided to hearing the submission of Departmental Representative (Sr.DR) for the Revenue and to decide the appeal on the basis of material available on record.

6. The learned Sr. DR for the Revenue submits that the assessee miserably failed to prove the source of cash deposit either before the Assessing Officer or before the Id.CIT(A). The Lower Authorities in absence of proper explanation and evidence about the source of cash deposit made addition. Moreover, the said bank account was not disclosed by assessee either in Return of Income, Computation of Income or during the assessment proceedings. The learned Sr. DR prayed for sustaining the entire addition.
7. We have considered the submission of learned Sr. DR for the Revenue and perused the order of Lower Authorities carefully. We have noted that during the assessment, the assessee was given ample opportunity to explain the source and nature of cash deposit. Initially, the assessee not disclosed the saving bank account maintained in RBS, however later on admitted the said bank account. The fact remains that assessee failed

to substantiate the source of cash deposit in the said bank either before the Assessing Officer or before the Id.CIT(A).

8. Before us, the assessee has neither filed any written submission, nor any documentary evidence to substantiate the grounds of appeal. We have further noted that due to non-cooperation of assessee his Counsel has withdrawn from the proceedings. In the aforesaid circumstances, we do not find any merit in the ground of appeal raised by the assessee, thus, we affirm the order passed by the Id.CIT(A).
9. Considering the facts and circumstances and the attitude of assessee and the appeal of the assessee burned with a cost of Rs.25,000/- (Rupee twenty five thousand only).
10. In the result, appeal of the assessee is dismissed with cost.

Order pronounced on 9th February 2021, result was declared at the time of hearing.

Sd/-
(Dr.ARJUN LAL SAINI)

(लेखा सदस्य/ACCOUNTANT MEMBER)

सुरत/ **Surat**, दिनांक **Dated:** 9th Feb 2021/#SGR

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

/ / **TRUE COPY** / /

Sd/-
(PAWAN SINGH)
(न्यायिक सदस्य/JUDICIAL MEMBER)

Assistant Registrar, Surat