

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC-2" NEW DELHI**

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.3294/Del/2019
निर्धारणवर्ष/Assessment Year:2010-11

Ashok Kumar Yadav H.No. 108, Block-A, Sanjay Gram Colony, Gurgaon, Haryana.	बनाम Vs.	ITO Ward 1(5), Gurgaon.
PAN No. ABHPY8322P		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri Yogesh Yadav, Adv.
राजस्वकीओरसे /Revenue by	Shri Faraat Khan, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	11.02.2021
उद्घोषणाकीतारीख/Pronouncement on	17.02.2021

आदेश /O R D E R

PER BHAVNESH SAINI, J.M.

This appeal by assessee has been directed against the order of Ld. CIT(Appeals)-1, Gurgaon dated 31.01.2019 for AY 2010-11, challenging the addition of Rs. 20,87,000/- on account of cash deposits in the bank account of the assessee.

2. Briefly the facts of the case are that AO received an information that assessee had deposited cash amounting to Rs. 20,87,000/- in his bank account in assessment year under appeal. The AO noted that assessee had not filed return of income for the year under consideration. The AO, accordingly, recorded the reasons and issued notice u/s 148 of

the Act, in response to which assessee filed return of income declaring income of Rs. 2,67,709/- under the head “salary and other sources”. The assessee is a salaried person in ICICI Prudential Life Insurance Limited. The AO asked the assessee to explain the source of cash deposits made by the assessee in his bank account. The assessee could not file any satisfactory explanation or evidence, therefore, AO made addition of Rs. 20,87,000/- to the income of the assessee u/s 69 of the Act.

3. The assessee challenged the addition before Ld. CIT(A) and it was submitted that cash was deposited on behalf of his client Shri P.S. Narayana for Life Insurance Premium. It was submitted that insurance receipts were in the name of Ms. Pooja Narayana. The assessee filed statement of Shri P.S. Narayana dated 02.11.2017 in which it was explained that he has given cash totaling to Rs. 21 lakhs to the assessee on different occasions during the period from 2006 to 2010 as he planned to move out of India and settled abroad in 2010. He has requested the assessee to invest this amount into ICICI Life Insurance in lieu of the return of funds. He has also filed copy of the return of income of Shri P.S. Narayana for AY 2009-10 and copy of his bank account for the period 01.04.2008 to 31.03.2010. The Ld. CIT(A), however, did not accept the contention of the assessee and confirmed the addition and dismissed the appeal of the assessee.

4. We have heard Ld. Representatives of both the parties and perused the material on record.

5. Ld. Counsel for assessee contended that AO has wrongly made addition of the cash deposit in the bank account u/s 69 of the Act. We do not agree with the contention of the Ld. Counsel for the assessee because assessee made a cash deposit of the impugned amount in his bank account, therefore, burden was upon the assessee to explain the source of the cash deposit in his bank account through evidence.

However, assessee has failed to prove the source of the same, therefore, it being unexplained investment was rightly added to the income of the assessee. Ld. Counsel for assessee reiterated the fact that amount was deposited as the same was given to the assessee for taking the insurance policy on behalf of Shri P.S. Narayana who has also filed his statement dated 2.11.2017. We do not find any substance in the argument of the Ld. Counsel for the assessee. The AO has specifically recorded in the assessment order that the bank account of the assessee revealed that assessee has deposited cash on different dates from 09.09.2009 to 13.02.2010 of different amounts. The AO on perusal of the premium receipts also noted that these receipts do not pertain to Shri P.S. Narayana from whom assessee claimed to have received cash amounting to Rs. 20.30 lakhs. It may also be noted that the letter of Shri P.S. Narayana dated 02.11.2017 explained that Shri P.S. Narayana has given cash amount of Rs. 21 lakhs to the assessee on different occasions during the period from 2006 to 2010. The assessee has also placed on record statement signed by assessee explaining therein that assessee had deposited cash into his bank account and made a demand draft in favour of the ICICI Prudential Life Insurance Company. The assessee stated in this letter that he has received cash amount of Rs. 8,30,000/- on 09.09.2009 and on three occasions Rs. 4 lakh each was received on 22/09, 05/10 and 14/12. This fact is contradicted to the explanation given in the letter of Shri P.S. Narayana. It is highly unbelievable that when cash was received from year 2006 from Sh. P.S. Narayana, the assessee kept it with him for more than three years till 2009. It is also unbelievable that cash amount if received earlier would have been deposited in installments in bank account of the assessee. The entire circumstances would lead to irresistible conclusion that when assessee was caught by the Revenue authorities to explain the cash deposits in his bank account, assessee made a frivolous claim of the alleged amount received from Shri P.S. Narayana for getting insurance policies. It is also

a fact that no evidence has been produced before the authorities below of the source of the cash deposited in the bank account of the assessee. No creditworthiness of Shri P.S. Narayana is also established through any evidence of giving any cash to the assessee on different occasions as alleged in the letter of Shri P.S. Narayana. Totality of the facts and circumstances, clearly show that assessee failed to explain the source of the cash deposit in his bank account through any reliable and cogent evidence, therefore, authorities below were justified in making and confirming the addition of the impugned amount in the hands of the assessee. We do not find any merit in the appeal of the assessee, same is, accordingly, dismissed.

6. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court.

Sd/-
(B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Dated: 17.02.2021

**Kavita Arora, Sr. P.S.*

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

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi