

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC : NEW DELHI  
(Through Virtual Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.482/Del/2021  
Assessment Year: 2017-18

Rita Madan,  
Shop Cum Residence No.3,  
Vijay Nagar, Silver Storey Market,  
New Delhi.

Vs. ITO,  
Civic Centre,  
New Delhi.

PAN: ALDPM7163L

(Appellant)

(Respondent)

Assessee by	:	Shri Kailash Khimani, Advocate
Revenue by	:	Shri Rajesh Kumar Dhanesta, Sr.DR
Date of Hearing	:	26.07.2021
Date of Pronouncement	:	22.09.2021

ORDER

This appeal filed by the assessee is directed against the order dated 5<sup>th</sup> March, 2021 of the CIT(A), National Faceless Appeal Centre.

2. Facts of the case, in brief, are that the assessee is an individual and e-filed her return of income on 12<sup>th</sup> July, 2017 disclosing total income of Rs.12,10,180/-. The case of the assessee was selected for scrutiny through CASS on limited parameters on the following issues:-

- (i) Capital gains/loss on sale of property
- (ii) Cash deposits during demonetization period

- (iii) Foreign remittance
- (iv) Investment in immovable property

3. The AO issued statutory notice u/s 143(2) of the Act which was duly served on the assessee. Subsequently, notices u/s 142(1) on various dates along with questionnaire were also issued and served on the assessee. During the course of assessment proceedings, the AO noted that the assessee is an employee of Airports Authority of India and has shown income from salary/pension and other sources in her return of income and has claimed exemption u/s 54EC amounting to Rs.45,29,812/-. He further noted that as per AIR information available with the Department, an amount of Rs.15 lakh was credited by the assessee in her different savings bank account in cash during the period from 09.11.2016 to 30<sup>th</sup> December, 2016 i.e., the demonetization period the details of which are as under:-

Bank Account	Amount of cash deposit
Punjab National Bank, Mall Road, Delhi A/c. No. 2726000100286400	7,00,000
Syndicate Bank, AAI, Safdarjung, Delhi A/c. No. 91102180003905	6,00,000
Vijaya Bank, Mukherjee Nagar, Delhi A/c. No. 680101010004275	2,00,000

4. He further noted that the assessee has invested an amount of Rs.46,70,000/- in National Highways Authority of India bonds which was claimed as exemption u/s 54EC. The AO asked the assessee to explain the source

of cash deposit in the bank account. Since there was no proper explanation to the satisfaction of the AO, invoking the provisions of 69A of the Act, the AO made addition of Rs.15 lakhs to the total income of the assessee and determined the income at Rs.27,10,180/-.

4.1 In appeal, before the CIT(A), it is argued that that the assessee was a working women with the Government Department and had a respectable job and keeps petty savings with her. It was submitted that the assessee lives with her mother in law and her husband is working out of India and she has to manage the day-to-day activities of the household on her own. It was submitted that there were cash withdrawals from the bank on different dates prior to the demonetization which was subsequently deposited in the bank after the announcement of the demonetization. It was accordingly argued that no addition is called for.

5. However, the Id.CIT(A), National Faceless Appeal Centre was not fully satisfied with the argument advanced by the assessee and deleted an amount of Rs.10 lakh and sustained the addition of Rs.5 lakh by observing as under:-

5.1 Examination of the evidences revealed the following:

1. There were cash withdrawals of Rs.7,00,000/- vide 2 cheques, bearing No.055081 and 055082 on 05.11.2016 from the bank account with Punjab National Bank.
2. Cash was deposited on 13.11.2016.
3. The denomination of currency is exactly matching. The Punjab National Bank also certified to this effect that there were cash withdrawals of Rs.7,00,000/- on 05.11.2016 and cash deposits of Rs.7,00,000/- on 13.11.2016.

Hence, I agree with the contention of the assessee that Rs.7,00,000/- which was deposited on 13.11.2016 in her Punjab National Bank account is originated from the withdrawals of equivalent amount, which were made just 7 days before i.e., 05.11.2016. Hence, the sources of the cash deposit of Rs.7,00,000/- is explained.

6.2 There is cash also deposit of Rs.6,00,000/- in the Syndicate Bank account on 12.11.2016. These currencies are in the denominations of Rs.1,000/- and Rs.500/-. With respect to sources of these deposits, it was explained that on 02.11.2016 there were cash withdrawals of Rs.6,00,000/. However, evidence in support of such withdrawal which was furnished are in the form of two cheques of Rs 3,00,000 each: i. one self cheque and ii. another cheque in the name of one shri Amar Nath. Thus, the cheque was issued in the name of Amar Nath and a self-cheque for cash withdrawal on the same day i.e., 02.11.2016. The cash withdrawal by self cheque may be accepted as source of cash deposit. Thus, the source of remaining cash deposit of Rs.3,00,000/- remain unexplained. With respect to cash deposit of Rs.2,00,000/- into Vijaya Bank, there were no evidence in support of the sources of the same. Hence, I confirm the addition of Rs.2,00,000/- cash deposit in the Vijaya Bank account. Hence, in total Rs.5,00,000/- cash deposits remain unexplained and the addition made with respect to same is confirmed. However, the addition of cash deposits to the extent of Rs.10,00,000/- (Rs 700,000 and Rs 300,000) is explained by cash withdrawals during the same week of demonetization period. Hence, the addition of Rs. 10,00,000/- is deleted.ö

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

ö1 That on the facts and circumstances of the case, the CIT-A has erred in incorrectly confirming addition of Rs. 3,00,000/- and holding that appellant has failed to produce source of Rs.300,000/- deposited in Syndicate Bank, Safdarjung Branch, Delhi on 12/11/2016. The learned CIT(A) failed to appreciate that such deposit was made out of money withdrawn from Syndicate bank by her real brother to whom appellant issued bearer cheque on 02/11/2016 for her personal need only and such money was deposited back on 12/11/2016 due to demonetization.

2That the CIT (A) has further erred in confirming the addition of Rs. 2,00,000/- deposited in Vijaya Bank, Mukherjee Nagar Branch, Delhi on 15/11/2016 as appellant had failed to substantiate source of such deposit without considering the fact that appellant has deposited such sum out of her past savings and money withdrawn from her salary account for day to day expenses. The learned CIT(A) failed to consider the clarification issued

by CBDT that deposit of Rs. 2.5 Lac in saving account during the demonetization period if in line with ITR filed by the assessee shall be exempt from any income tax enquiry or addition.

3 That the appellant craves leave to add, alter, and modify any of the grounds at the time of hearing or before the hearing.ö

7. The Id. Counsel for the assessee, at the time of hearing, filed an application before the Tribunal requesting to accept the following additional evidences:-

ö1. Letter issued by Canara Bank (erstwhile Syndicate Bank) confirming withdrawal on (02/11/2016) and deposit of Rs.3,00,000/- on (12/11/2016) against cheque number (867009) issued to Amarnath.

2. Affidavit of Mr. Amarnath stating purpose of cheque (867009) for Rs. 3,00,000/- issued to him by Rita Madan.ö

8. He submitted that these additional evidences will establish the source of deposit which was sustained by the CIT(A). He accordingly submitted that in the interest of justice the evidences should be admitted. Referring to the decision of the Agra Bench of the Tribunal in the case of Smt. Uma Agrawal, Gwalior vs. ITO, vide ITA No.35/Agr/2021, order dated 18<sup>th</sup> June, 2021, he submitted that under identical circumstances the Tribunal has deleted the addition made by the AO and sustained by the CIT(A). He also drew the attention of the Bench to the written submission and additional documents filed before the CIT(A), copy of CBDT SOP relevant to cash transactions during demonetization period and relevant extracts of Negotiable Instruments Act, 1981. He accordingly submitted that the order of the CIT(A) sustaining the addition of Rs.5 lakhs should be set aside and the grounds raised by the assessee should be allowed.

9. The Id. DR, on the other hand, strongly supported the order of the CIT(A). So far as the additional evidences filed are concerned, he submitted that these are only afterthought. He submitted that the assessee has miserably failed to explain the source of cash deposit of Rs.5 lakh which has been sustained by the CIT(A). He accordingly submitted that the order of the CIT(A) should be upheld.

10. I have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. I find, the AO, in the instant case, made addition of Rs.15 lakhs being the cash deposit in the three bank accounts maintained by the assessee holding that the assessee was unable to explain the source of such deposits in the bank account. I find, the Id.CIT(A) deleted the amount of Rs.10 lakhs and sustained an amount of Rs.5 lakhs the reasons of which have already been reproduced in the preceding paragraph. It is the submission of the Id. Counsel for the assessee that the amount of Rs.2 lakhs deposited in Vijaya Bank is as per the guidelines of CBDT SOP relevant to cash transactions during demonetization period . Similarly, the amount of Rs.3 lakhs deposited in Canara Bank is the amount of money withdrawn on 02.11.2016 which was deposited on 12.11.2016 which is evident from the additional evidence filed by him. Since the additional evidences in the form of letter issued by Canara Bank and affidavit of Mr. Amarnath go to the root of the matter for deciding one of these issues, therefore, I admit the same and restore the issue to the file of the AO with a direction to decide the issue of

deposit of Rs.5 lakhs i.e., Rs.3 lakhs in Canara Bank and Rs.2 lakhs in Vijaya Bank as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to appear before the AO and substantiate her case without seeking any adjournment under any pretext failing which the AO is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The decision was pronounced in the open court on 22.09.2021.

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 22<sup>nd</sup> September, 2021.

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi