

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B" BENCH: BANGALORE

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER AND
SHRI GEORGE GEORGE K, JUDICIAL MEMBER

ITA. No. 680/Bang/2019
Assessment Year: 2015-16

Shri Girish Kidiyappa Nashi, No. 76, Shivaling Nilaya, N.N. Farm Road, Sanjaynagar, Bangalore – 560 094. PAN: AAQPN 2313K	vs.	The Income Tax Officer, Ward – 6(3)(2), Bangalore.
(Appellant)		(Respondent)

Assessee by	:	Shri Rajeev Nulvi, Advocate
Revenue by	:	Shri Priyadarshi Mishra, Addl. CIT (DR)

Date of Hearing :	23.11.2021
Date of Pronouncement :	21.12.2021

ORDER

Per Shri Chandra Poojari, Accountant Member

This appeal by assessee is directed against the order of CIT(A) dated 27.03.2019 for the assessment year 2015-16. The assessee raised grounds as follows:

- “1. The order of the authorities below is against the fact of the case and bad in law.
2. On the facts and circumstances of the case, the Hon'ble CIT(A) erred in enhancing the addition from 20% of the cash deposits of Rs.69,54,150/- to 100% . Even though the A.O in the remand report stated that the cash deposits to the tune of Rs.1,07,00,000/- stand explained.

3. On the facts and circumstances of the case, the Hon'ble CIT (A) erred in enhancing the income of Rs.40,23,500/- on account of cash deposits in TGMC S/B account No. 30301571221 held in the name of Mrs. Sharmila .R and appellant jointly. The said cash deposits of Rs.40,23,500/- was considered in the hands of Mrs. Sharmila .R. The action of CIT(A) amounts to double taxation
 4. Without prejudice to the above ground, the Hon'ble CIT(A) has no jurisdiction to enhance the income of Rs.40,23,500/, which was not considered by the A.O and also which was not before the A.O. The Hon'ble CIT(A) erred in enhancing the income of Rs.40,23,500/- when it was brought notice by the A.O in his remand report and not considered by the A.O in the assessment order.
 5. On the facts and circumstances of the case, the Hon'ble CIT(A) erred in sustaining/ enhancing the addition even though on similar evidences for the same assessment year in case of appellant's wife was deleted by her predecessor. This action of the Hon'ble CIT(A) was gross violation of principal of consistency.
 6. On the facts and circumstances of the case, the Hon'ble CIT(A) erred in not considering the co-relation established by the appellant between receipts of rental security deposits and cash deposits in the bank on the ground that the deposits of previous year or previous months shall not be taken as source of income for depositing in the bank for succeeding year or succeeding month, where there is no bar in the law to hold the accounted cash in hand for any number of days or months.
 7. For these and other reasons which may be adduced at the time of hearing, Your Honour is requested to delete the addition made by the Assessing Officer and sustained and enhanced by CIT(A) for substantial cause of justice.
 8. The appellant craves leaves, to add, to alter, to amend and to delete any other grounds at the time of hearing.”
2. The facts of the case are that the appellant and his wife Smt. Sharmila R are assessed to tax in the office of the Income Tax Officer, Ward - 6(3)(2), Bangalore. For the A.Y 2015-16, Appellant's as well as his wife Smt.

Sharmila R's case was selected for scrutiny under CASS for verification of large cash deposits in savings bank a/c and to purchase the property during the year in the Appellant's case.

3. In consequence of the scrutiny assessment, the Assessing Officer passed the order u/s 144 of the Income Tax Act, 1961 for non-appearance of the Appellant before the Assessing Officer due to his busy schedule in politics. During the course of scrutiny assessment, the Assessing Officer noticed that there were cash deposits in the following accounts in case of the Appellant as follows

S.No	Name of the Bank and branch	Amount of cash deposited(Rs.)
1	Sir M. Visvesvaraya Co-operative Bank Ltd, Kumar Park West	20,37,000/-
2	Tumkur grain merchants' Co-operative Bank Ltd., Rajajinagar	10,00,000/-
3	Vijay bank, Sankey Road	12,52,000/-
4	Punjab and Sind Bank, Ulsoor	26,65,150/-
	Total	69,54,150/-

4. And also there was cash deposits in the Appellants wife Smt. Sharmila R's a/c in the following accounts :-

S.No	Name of the Bank and branch	Amount of cash deposited(Rs.)
1.	Tumkur grain merchants' Co-operative Bank Ltd., RT Nagar	40,23,500/-
2.	State Bank of India, Palace Orchards	71,800/-
	Total	40,95,300/-

5. Due to non-production of evidences for the source of the cash deposits, the Assessing Officer made the addition u/s 69 of the Income Tax Act, 1961, the 20% of Rs. 69,54,150/- deposited in the Appellants a/c amounting to Rs. 13,90,830/- and also made the addition u/s 69 of the Income Tax Act, 1961, 20% of Rs. 40,95,300/- which amounts to Rs. 8,19,060/- in his wife's hands.
6. Against the order of the Assessing Officer, the Appellant preferred an appeal in case of Appellant as well as his wife's case by making a prayer u/r 46A of the Income Tax Rules, 1962 for admission of additional evidences in the form of rental agreements wherein, rental security deposits were received to the tune of Rs. 1,54,00,000/-. Out of which, the Appellant as well as his wife deposited in the bank a/c during the year 2014-15, amounting to Rs. 1,46,67,950/- in case of the Appellant Rs.1,07,72,650/- and in wife's case Rs. 40,95,300/-.
7. The Ld. Commissioner of Income Tax (Appeal)-6, has allowed the appeal of the wife on the basis of the remand report submitted by the Assessing Officer but whereas in case of the Appellant, the Ld. Commissioner of Income Tax (Appeal)-6 enhanced the addition u/s 69 of the Income Tax Act, 1961 by enhancing from Rs.13,90,830/- to Rs.1,07,72,650/-.
- 7.1 Aggrieved by the order of the Commissioner of Income Tax (Appeal), the Appellant filed appeal before us.
8. The Ld.AR submitted that additional evidences filed u/r 46A of the Income Tax Rules, 1962, the Commissioner of Income Tax (Appeal) called for remand report from the Assessing Officer. Since the assessment order was passed u/s 144 of the Income Tax Act, 1961, the

Assessing Officer submitted the remand report without providing an opportunity of being heard to the Appellant wherein he has admitted the source for the cash deposits to the tune of Rs. 1,05,00,000/- (as per remand report Rs. 87,00,000/- + Rs. 18,00,000/- mistake committed by the Assessing Officer as he has taken Rs. 2,00,000/- instead of Rs. 20,00,000/- in case of Syed Arif Pasha) and said that Rs. 30,50,000/- [which could be Rs. 7,50,000/-] and additional cash deposit Rs. 40,23,500/- stands remained unexplained. It means that the deposit amounting to Rs. 1,05,00,000/- has been explained. In spite of that, the Commissioner of Income Tax (Appeal) enhanced the income, 20% of Rs. 69,54,150/- to 100%, which is against the opinion of the Assessing Officer and against the fact.

9. Regarding enhancement of Rs. 40,23,500/- which was brought to the notice of Commissioner of Income Tax (Appeal) by the Assessing Officer vide his remand report, it was submitted that the said amount of Rs. 40,23,500/- has been considered in the hands of Appellant's wife as the said A/c bearing no. 30301571221 held in the joint name of Smt. Sharmila R and Shri. Girish K Nashi. Since the first name is Smt. Sharmila R and considered in the hands of Smt. Sharmila R by the Assessing Officer in passing the assessment order u/s 144 of the Income Tax Act, 1961. The Ld. Commissioner of Income Tax (Appeal) action of enhancing the income in the hands of the Appellant by Rs. 40,23,500/- amounts to double taxation.
10. Without prejudice to the above, it was submitted that the CIT(Appeals) has no jurisdiction or power to enhance the income on the basis of the items of income which were not before the Assessing Officer and not

considered by the Assessing Officer. He placed reliance on the judgment of **Hon'ble Madras High Court in case of CIT Vs Changanlal Kailas & Co. 148 ITR 7** and also **Gujarat High Court in case of CIT Vs Karamchand Premchand Pvt. Ltd. 74 ITR 254** wherein held that "entire assessment is thrown before the first appellate authority in an appeal and so long as he does not travel outside the matter considered and determined by the Assessing Officer."

11. He submitted that the source of the said cash deposit was from various tenants received as refundable security deposit. The proofs of the rental agreement were produced before the Ld. Commissioner of Income Tax (Appeal) in the form of additional evidence to support the contention of the Appellant. Total refundable security deposit received by the Appellant and his wife was more than Rs. 1,12,50,000/- out of which Rs. 40,95,300/- was deposited in the account of his wife Smt. Sharmila R and Rs. 69,54,150/- deposited in the account of the Appellant. The CIT(Appeals) in her order, in spite of the Assessing Officer's submission that the source to the extent of Rs. 1,05,00,000/- stands explained, enhanced the income only on the basis of previous year income and previous month income cannot be considered for depositing in the bank in succeeding year/month.
12. The Ld.AR submitted that there is no law that previous year income or previous month income cannot be considered for depositing in the bank in the succeeding year/month and also there is no law that the Appellant should not have accounted cash balance in hand for any no: of days/months/year. Hence, the action of the CIT(Appeals) is against the provisions of law and against the fact of the case. He relied on the

order of the Chandigarh Bench of this Tribunal in case of **Baijit Singh, Ludhiana in ITA No.986/CHD/2018** on the similar fact of the case wherein held that in Para 5.1 of the said order is reproduced hereunder:-

"5.1 On a consideration thereof, I find that in the facts of the present case, the availability of funds for re-depositing in the said bank accounts has been consistently well addressed. No evidence rebutting the claim is available on record. I find myself in agreement with the submissions advanced by the Id. AR that how would naming a property identified for a purported purchase or a person with whom there was an oral Agreement, make the claim more plausible. The law permits oral agreements and the tax authorities insistence in the circumstances to produce a written Agreement to Sell admittedly is arbitrary perverse and unreasonable. The fact that the contemplated transaction did not materialize is self evident. Had there been any evidence that the amounts had been utilized elsewhere, then the position would have varied as was the position in the case of Smt, Kavita Chandra Vs CIT cited supra, the decision cited by the department. However, the facts relatable thereto shall be referred to subsequently. Reverting to the facts of the present case, it is seen that there is no such instance, reference, argument or evidence to suggest that the funds were not available with the assessee or for reasons mentioned could not have been available to the assessee. It is for the department to bring some evidence in support of its claim, suspicion or allegation on record. Admittedly, there is no law that funds withdrawn from the banks cannot be held/retained in cash by the parties. There can also be no blanket period which can be judicially considered to be a reasonable time. The fact that there is a gap of about four months by itself in the peculiar circumstances does not lead to any conclusion which detracts from the merits of the claims made. The reasonableness of the explanation has to be decided considering the facts and ITA 986/CHD/2018 A.Y. 2009-10 the peculiar circumstances of each case. On a perusal of the decision of the jurisdictional High Court in the case of Smt. Kavita Chandra Vs CIT, Panchkula (cited supra) relied upon by the Revenue, it is seen that the said decision prevails in peculiar facts and circumstances of the case wherein it was a consistent finding of fact available on record to the Hon'ble High Court that the withdrawals made were for the purpose of business and thus, were not available for re-deposit back in the bank account. In the said circumstances, claim of re-deposit after a gap of 2-3 months was held to be not possible. In the facts of the present case, it is seen that there is no such allegation. No evidence has been made available by the Revenue to support the possibly unarticulated suspicion that the funds have been utilised

elsewhere. Accordingly, considering the peculiar facts and circumstances of the present case ground No. 2 raised by the assessee is allowed. The addition sustained is directed to be deleted."

13. He submitted that on the same set of evidences and for the same A.Y, the addition in case of the Appellant's wife was deleted but in the Appellant's case it is sustained and enhanced. Hence, the department is not supposed to take divergent stand on the same set of evidences for the same A.Y, wherein facts and source of income are same and similar. Hence, the CIT(Appeals) violated the principal of consistency which leads to multiplicity of appeals.
14. The Ld.DR submitted that after taking into account the total cash deposits received by the assessee, and his, wife was more than Rs.1,12,50,000/- out of which Rs.40,95,300/- was deposited in the account of his wife and the balance Rs.69,54,150/- was deposited in the assessee's bank account. According to Ld.DR, the assessee explained that it was deposit out of cash deposits received from security deposit received from various tenants. It is submitted that there was a long gap between the receipt of amount and deposit into various Bank A/cs. On this account, it cannot be said that security deposit is source to deposit into Bank A/cs. which cannot be considered as the assessee has explained source of deposits. It cannot be said that the assessee had kept the security deposit received from tenants and it was deposited into bank account after long gap of time. There is no coordination between receipt of rental deposit and deposit it into various bank accounts. It was submitted that sum of Rs. 46 Lakhs was received during the Financial Year 2013-14 from 5 tenants whereas the first cash deposit was made into bank account in May, 2014 at Rs. 48,000/- and Rs. 98,000/- in May, 2014. There was no correlation between the receipt of

deposit received during FY 2013-14 and deposit into bank account in the FY 2014-15. Further it submitted as follows.

14.1 The Id. DR submitted that after taking into account the additional cash deposits of Rs.40,23,500/- and the fresh set of rental agreements submitted, it can be observed that the total rental deposits received in the month of June 2014 was Rs.25,50,000/- and the total cash deposits during the same month were Rs.21,80,250/.

14.2 The Id. DR submitted that after taking into consideration the 2 new rental agreements submitted, it is seen that in the month of August 2014 the total rental deposits received was Rs.45,50,000/- while the total cash deposits during the same month were Rs.20,47,500/-. There were no rental security deposits received during the month of September but there are cash deposits of Rs.10,39,250/-. There is only one rental agreement for Rs.7,00,000/- in October 2014 but there are cash deposits of Rs.20,15,000/-. There were no rental security deposits received in November and December 2014 or in January 2015 but there were cash deposits of Rs. 80,250/-, Rs.3,82,000/- and Rs.10,79,000/- in each of these months respectively. There were cash deposits totalling Rs.9,92,300/- in February 2015. There were two rental agreements dated 28/02/2015 totalling Rs.14,00,000/- but the cash deposits on that date were only Rs.1,30,000/-. Hence these rental agreements cannot be used to explain the cash deposits earlier in the month totalling to Rs.8,62,300/-.

15. We have heard both the parties and perused the material on record. In the present case, the assessee deposited Rs.1,07,72,650 to various bank accounts from 10.2.2014 to 21.3.2015. During this period, the assessee received rental deposits from various tenants to the tune of

Rs.1,54,00,000. The assessee explained that the said amount of Rs.1,07,72,650 was sourced by receipt of rent deposits. According to the CIT(Appeals), there is a long time gap between the receipt of rent deposits and corresponding deposits into various bank accounts. For clarity, we reproduce the receipt and deposit of rent details and deposits to bank accounts as follows:-

Cash Flow Statement of Rental Advance received in cash and deposited in the bank for period From 01-02-2014 to 21-03-2015				
Date	Particulars	Rental Deposit in Cash Received	Cash Deposited	Cash in Hand
01-02-2014	Jatin S Seth	3,00,000.00		3,00,000.00
01-02-2014	Fayaz CM	8,00,000.00		11,00,000.00
01-02-2014	Syed Irian	4,00,000.00		15,00,000.00
22-02-2014	Mohamed Owis	8,00,000.00		23,00,000.00
27-03-2014	Mohammed Wahid	8,00,000.00		31,00,000.00
27-03-2014	Syed Arif Pasha	20,00,000.00		51,00,000.00
01-05-2014	Mohamed Haneef Babu	4,00,000.00		55,00,000.00
05-05-2014	Punjab & Sind Bank		48,000.00	54,52,000.00
31-05-2014	Punjab & Sind Bank		50,000.00	54,02,000.00
03-06-2014	Ilyaz Pasha	4,00,000.00		58,02,000.00
09-06-2014	TGMC Bank Ltd.-1221		4,00,000.00	54,02,000.00
09-06-2014	TGMC Bank Ltd.-1221		4,00,000.00	50,02,000.00
09-06-2014	TGMC Bank Ltd.-1221		4,00,000.00	46,02,000.00
10-06-2014	Rajashri	6,00,000.00		52,02,000.00
10-06-2014	Mohammad Shuaib	5,00,000.00		57,02,000.00
10-06-2014	Mudasser Ulla Khan	1,50,000.00		58,52,000.00
16-06-2014	Noorulla Shariff	5,00,000.00		63,52,000.00
18-06-2014	Punjab & Sind Bank		30,250.00	63,21,750.00
23-06-2014	TGMC Bank Ltd-1221		4,50,000.00	58,71,750.00
23-06-2014	TGMC Bank Ltd-1221		4,50,000.00	54,21,750.00
26-06-2014	TGMC Bank Ltd-1221		50,000.00	53,71,750.00

26-06-2014	Riyaz Khan	4,00,000.00		57,71,750.00
08-07-2014	Basha S	7,00,000.00		64,71,750.00
01-08-2014	Meharaj Begum	3,50,000.00		68,21,750.00
05-08-2014	Aminabi	8,00,000.00		76,21,750.00
05-08-2014	TGMC Bank Ltd-1221		6,50,000.00	69,71,750.00
06-08-2014	Punjab & Sind Bank		24,000.00	69,47,750.00
07-08-2014	Punjab & Sind Bank		33,000.00	69,14,750.00
09-08-2014	Punjab & Sind Bank		23,000.00	68,91,750.00
10-08-2014	Fayaz CM	10,00,000.00		78,91,750.00
12-08-2014	Punjab & Sind Bank		24,000.00	78,67,750.00
14-08-2014	M V Co-operative Bank		10,00,000.00	68,67,750.00
18-08-2014	Vijaya Bank		25,000.00	68,42,750.00
18-08-2014	Punjab & Sind Bank		20,000.00	68,22,750.00
18-08-2014	Kadri	4,00,000.00		72,22,750.00
18-08-2014	Syed Mahmood Basha	4,00,000.00		76,22,750.00
20-08-2014	Mohamed Shakeel Basha	16,00,000.00		92,22,750.00
25-08-2014	TGMC Bank Ltd-1221		1,97,500.00	90,25,250.00
27-08-2014	TGMC Bank Ltd-1221		51,000.00	89,74,250.00
01-09-2014	TGMC Bank Ltd-1221		3,00,000.00	86,74,250.00
05-09-2014	TGMC Bank Ltd-1221		1,00,000.00	85,74,250.00
05-09-2014	TGMC Bank Ltd-1221		1,50,000.00	84,24,250.00
08-09-2014	Vijaya Bank		10,000.00	84,14,250.00
09-09-2014	TGMC Bank Ltd-1221		75,000.00	83,39,250.00
11-09-2014	Punjab & sind Bank		24,000.00	83,15,250.00
17-09-2014	TGMC Bank Ltd-1221		3,50,000.00	79,65,250.00
19-09-2014	Punjab & sind Bank		30,250.00	79,35,000.00
11-10-2014	Punjab & sind Bank		16,00,000.00	63,35,000.00
16-10-2014	Vijaya Bank		2,00,000.00	61,35,000.00
18-10-2014	Abdul Rahim	7,00,000.00		68,35,000.00
21-10-2014	Punjab & sind Bank		10,000.00	68,25,000.00
21-10-2014	Punjab & sind Bank		2,05,000.00	66,20,000.00
05-11-2014	Punjab & sind Bank		50,000.00	65,70,000.00
18-11-2014	Punjab & sind Bank		30,250.00	65,39,750.00
12-12-2014	Vijaya Bank		50,000.00	64,89,750.00

17-12-2014	Punjab & sind Bank		65,000.00	64,24,750.00
27-12-2014	Vijaya Bank		49,000.00	63,75,750.00
30-12-2014	Vijaya Bank		18,000.00	63,57,750.00
31-12-2014	TGMC Bank Ltd- 6785		2,00,000.00	61,57,750.00
08-01-2015	Vijaya Bank		2,00,000.00	59,57,750.00
13-01-2015	M V Co-operative Bank		39,000.00	59,18,750.00
19-01-2015	Punjab & Sind Bank		20,000.00	58,98,750.00
21-01-2015	M V Co-operative Bank		20,000.00	58,78,750.00
23-01-2015	Vijaya Bank		3,00,000.00	55,78,750.00
23-01-2015	Vijaya Bank		4,00,000.00	51,78,750.00
28-01-2015	M V Co-operative Bank		1,00,000.00	50,78,750.00
04-02-2015	TGMC Bank Ltd. - 1221		2,00,000.00	48,78,750.00
08-02-2015	M V Co-operative Bank		5,00,000.00	43,78,750.00
12-02-2015	M V Co-operative Bank		32,000.00	43,46,750.00
20-02-2015	Punjab & Sind Bank		30,300.00	43,16,450.00
20-02-2015	TGMC Bank Ltd.-1221		1,00,000.00	42,16,450.00
28-02-2015	TGMC Bank Ltd.-1221		50,000.00	41,66,450.00
28-02-2015	M V Co-operative Bank		50,000.00	41,16,450.00
28-02-2015	M V Co-operative Bank		30,000.00	40,86,450.00
28-02-2015	M A Rizwan Ahmed	7,00,000.00		47,86,450.00
28-02-2015	Mohamed Idris Sadath	7,00,000.00		54,86,450.00
10-03-2015	M V Co-operative Bank		6,000.00	54,80,450.00
13-03-2015	TGMC Bank Ltd.-6785		4,50,000.00	50,30,450.00
16-03-2015	Punjab & Sind Bank		8,4000.00	50,22,050.00
19-03-2015	Punjab & Sind Bank		16,700.00	50,05,350.00
20-03-2015	Punjab & Sind Bank		9,000.00	49,96,350.00
24-03-2015	Punjab & Sind Bank		1,09,000.00	48,87,350.00
28-03-2015	M V Co-operative Bank		2,60,000.00	46,27,350.00
		1,54,00,000.00	1,07,72,650.00	

16. As seen from the above table, the CIT(A) has not disputed the receipt of deposits from various tenants and the only dispute is with regard to time gap between receipt of rent deposits and the deposit into the bank

accounts. We have examined the receipt of rent deposits and deposits into bank account which are as follows:-

- i) An amount of Rs.46,00,000/- was received during F.Y. 2013-14 (in February and March) from five rental agreements whereas the first cash deposit in the appellant's bank account is dated 01/05/2014 and is of Rs.48,000/-. The total cash deposits in May is only Rs.98,000/-. There is clearly no linkage between the rental deposits received during F.Y. 2013-14 and the cash deposits in the bank in F.Y. 2014-15.
- ii) After taking into account the additional cash deposits of Rs.40,23,500/- and the fresh set of rental agreements submitted, it can be observed that the total rental deposits received in the month of June 2014 was Rs.25,50,000/- and the total cash deposits during the same month were Rs.21,80,250/-.
- iii) After taking into consideration the 2 new rental agreements submitted, it is seen that in the month of August 2014 the total rental deposits received was Rs.45,50,000/- while the total cash deposits during the same month were Rs.20,47,500/-.
- iv) There were no rental security deposits received during the month of September but there are cash deposits of Rs.10,39,250/-.
- v) There is only one rental agreement for Rs.7,00,000/- in October 2014 but there are cash deposits of Rs.20,15,000/-.

- vi) There were no rental security deposits received in November and December 2014 or in January 2015 but there were cash deposits of Rs. 80,250/-, Rs.3,82,000/- and Rs.10,79,000/- in each of these months respectively.
 - vi) There were cash deposits totalling Rs.9,92,300/- in February 2015. There were two rental agreements dated 28/02/2015 totalling Rs.14,00,000/- but the cash deposits on that date were only Rs.1,30,000/-. Hence these rental agreements cannot be used to explain the cash deposits earlier in the month totalling to Rs.8,62,300/-.
 - vii) There were no rental agreements in the month of March 2015 but there were cash deposits of Rs.8,59,100/-.
17. From the above analysis, the CIT(Appeals) was of the opinion the rent deposits cannot be considered as source for deposit into bank accounts due to time gap between these two. However, the fact is that the assessee actually received rent deposits from various parties to the tune of Rs.1.54 crores and out of this, an amount of Rs.40,95,300 has been given credit towards the deposits in assessee's wife's bank account. However, the CIT(Appeals) has not accepted that the balance of Rs.1,08,00,000 is available to the assessee to deposit the same into the bank account of the assessee at Rs.1,07,72,650. The lower authorities have not brought on record any evidence to show that these rental deposits of Rs.1,08,00,000 have been used by the assessee for any other purpose or used to deposit in any other bank account. Thus, it cannot be said that these rental deposits received from various tenants

were used for assessee's personal purpose or any other investment purpose. In such circumstances, it cannot be disputed that the rent deposits received from various tenants have been used by the assessee for any other purpose than the deposit into various bank accounts. The assessee might have kept the rent deposits received in the form of cash with him and deposited the same into various bank accounts at a later date. It is quite possible that the assessee might have kept the rent deposits received in the form of cash for some purpose and the same remains to be utilised for one reason or the other and the cash balance continued to remain with him for a long period. Later, the assessee deposited into various bank accounts. Some times it may also happen that cash balance with the assessee continues to remain as cash balance even for many months and sometimes received by the assessee might be on the same day. All these probable aspects of the matter cannot be simply ignored or brushed aside. The fact remains that the cash rental deposits have been received by the assessee which is not at all disputed and usage of the same for deposits into various bank accounts cannot be rejected outrightly. Considering the totality of facts and circumstances of the case and in view of the discussion above, in our opinion, the cash deposit into various bank accounts made by the assessee on various dates should be reasonably presumed that it is from the cash rental deposits received by the assessee on various dates. Accordingly, in our opinion, the addition made by the AO and the enhancement of the same by the CIT(Appeals) cannot be upheld and the addition ought to be deleted as there is sufficient sources in the form of rent deposits received by the assessee from various tenants. Accordingly, we are inclined to delete the addition of Rs.1,07,72,650 made by the CIT(Appeals).

18. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 21st December, 2021.

Sd/-
(GEORGE GEORGE K)
JUDICIAL MEMBER

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Dated: 21st December, 2021.

/MS/ Desai S Murthy /

Copy to

1. The Appellant
2. The Respondent
3. CIT(A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore