

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 6688/DEL/2019**

**[Assessment Year: 2016-17**

Vikramjit Singh, 28A, Prithviraj Road, New Delhi-110011.  PAN- APMPS1373R	<u>Vs</u>	Assistant Commissioner of Income-tax, Circle-26(2), Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	<b>Ms. RaginiHanda, CA</b>	
<b>Respondent by</b>	<b>Sh. Om Prakash, Sr. DR</b>	
<b>Date of hearing</b>	<b>05.01.2022</b>	
<b>Date of pronouncement</b>	<b>12.01.2022</b>	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-9, New Delhi, dated 18-06-2019, pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

- “1. That on the facts and circumstances of the case and in law, the order dated 18.06.2019 passed by the Learned Commissioner of Income tax Appeals (“Ld.CIT(A)”) is erroneous and bad in law.*

2. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming addition of Rs. 10,00,000/- made by the Learned Assessing Officer (“Ld. AO”).*
  3. *The Ld. CIT(A) has erred in holding that the total cash deposit of Rs. 10,00,000/- out of the cash withdrawals made by the Assessee is unaccounted and unexplained without mentioning any section and thereby making the addition of Rs. 10,00,000/- despite the fact that the source has been explained.*
  4. *The Ld. CIT(A) has erred in relying upon judicial decisions against the assessee which are unconnected and irrelevant and are distinguishable upon facts and in law.*
  5. *That the grounds of appeal are independent and without prejudice to each other.*
  6. *The assessee craves leave to add, amend, alter, remove, rescind, forgo or withdraw any of the above grounds of appeal, which are without prejudice to one another, before or at the time of hearing of the appeal in the interest of natural justice.”*
2. The only effective ground in this appeal is against sustaining the addition of Rs. 10,00,000/- made by the Assessing Officer.
3. The facts, in brief, are that in this case return declaring an income of Rs. 4,15,850/- was filed electronically on 26.09.2017. The case was taken up for scrutiny assessment and the assessment u/s 143(3) of the Income-tax Act, 1961 was framed vide order dated 24.12.2018. While framing the assessment, the Assessing Officer observed that during the year under consideration the assessee had deposited Rs. 10,00,000/- in his bank account. Therefore, the Assessing Officer issued a show cause to explain the source of such deposit. In response

thereto the assessee stated that the cash was deposited out of cash withdrawal made by him during the year under consideration. In support of it the assessee submitted copy of savings bank account. However, the Assessing Officer did not accept the contention of the assessee and proceeded to make the addition of Rs. 10,00,000/-.

4. Aggrieved against it, the assessee preferred appeal before the learned CIT(Appeals), who, after considering the submissions, sustained the addition and dismissed the appeal of the assessee. Now the assessee is in appeal before this Tribunal.

5. Learned Authorized Representative of the assessee vehemently argued that the authorities below are not justified in making the impugned addition. Learned AR further submitted that the assessee proved by documentary evidence in the form of bank statement etc. that the cash was deposited out of withdrawal as made out savings bank account. Learned counsel drew my attention to bank statement and the orders passed by the authorities below. Learned counsel for the assessee submitted that under the facts and circumstances of the case the addition was not called for and deserved to be deleted.

6. Per contra, learned Sr. D.R. Shri Om Prakash vehemently opposed the submissions made on behalf of the assessee and argued that it was incumbent upon the assessee to prove the source of deposit.

7. Learned AR in rejoinder submitted that the source was duly submitted and the assessee had also explained to the learned CIT(Appeals).

8. I have heard the rival submissions and perused the material on record. I find that the Assessing officer made addition by observing as under:

*“The contention of assessee that cash deposits are from withdrawals from bank account is unconvincing. Since, the case is getting time barred by limitation on 31.12.2018 and assessee has not submitted the reasons for huge cash withdrawals and why the amount remains unutilized and redeposit. It is held that cash deposits are from unaccounted money and remains unexplained.*

*In the instant case, judgment of High Court of Punjab & Haryana in ITA 421/2016 in the case of Smt. Kavita Chandra vs. CIT(Appeals), Panchkula and others applies wherein it was held that “Moreover as held by the learned CIT(A) the withdrawals have been found to be subsequently redeposited after a gap of two or three months which is not probable. The assessee therefore upheld the order of the learned CIT(A) treating the cash deposit of Rs. 14,20,212/- as unexplained income of the assessee”.*

*Therefore entire amount of Rs. 10,00,000/- deposited in cash by assessee during the F.Y. 2015-16 is treated as unaccounted money/unexplained income of the assessee and added back to the income of the assessee.”*

9. Further, it is seen that the learned CIT(Appeals) dismissed the appeal by observing as under:

*“5.1. I have considered the facts of the grounds. Contention of the AR of the appellant, case laws relied upon by the AR of the appellant. The whole issue is based on the fact that the AO had made an addition of Rs. 10 lac in its bank account which was found to be unaccounted for.*

*Contra, the appellant claims it to be out of the cash withdrawals made by the appellant from the same savings account during the year under*

*consideration. In its support the appellant has also relied on the bank statement and other documents. The AO stressed upon the purpose for which the appellant had withdrawn such a huge amount. However, the appellant continued to stress upon the mathematical combination of withdrawal and stated that it was out of the earlier withdrawals made by the appellant out of the same savings bank account.*

*5.2. In this regard, reliance is placed on the judicial precedent in the case of SmtKavita Chandra vsCIT(Appeals) 398 ITR 641 wherein the Hon'ble Punjab and Haryana High Court held inter alia that:*

*“IT: “Cash withdrawals were made for purpose of business and same was not available for redeposit and, assessee was unable to link cash withdrawn from bank to cash deposit, same would be held to be assessee’s unexplained income.”*

*5.3 The case laws relied upon by the appellant are not found to be aptly applicable in this case in as much as they pertains to different facts and circumstances.*

*5.4. The appellant had failed to prove the reasons for the withdrawals from the bank account and why such amount remained unutilized and redeposited. Mere stating that the amount was out of the cash withdrawals made from the same bank account does not prove the amount to be unaccounted. Even during the course of appellate proceedings, the AR of the appellant continued to stress on the fact that it was out of the earlier withdrawals and it ws the same money which was withdrawn by it. No supporting documents or evidence which could have controverted the finding of the AO was produced by the appellant. In view of the factual matrix of the case, amount remains unaccounted for and is held to be unexplained income of the appellant. The appellant fails in these grounds of appeal.”*

10. I have given my thoughtful consideration to the submissions for the parties and the material placed before me. Looking to the facts of the case, I am of the consideredview that the addition as made and confirmed by the authorities below,

is not justified. No reason is assigned for not accepting the contention of the assessee that deposit was made out of cash withdrawal. The AO has failed to bring any evidence suggesting that the cash so withdrawn from the account was expended for any other purpose. Therefore, in the absence of such material the findings of authorities below cannot be sustained. The Assessing Officer is hereby directed to delete the addition. The ground is allowed.

11. Appeal of the assessee is allowed.

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*Madan Pal Verma\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

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