

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
"D" BENCH, AHMEDABAD
(CONDUCTED THROUGH VIRTUAL COURT AT AHMEDABAD)

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER

आयकर अपील सं./ITA No.27/AHD/2018
निर्धारण वर्ष/Asstt. Year:2014-2015

I.T.O, Ward-3(2)(1), Ahmedabad.	Vs.	Shri Dilipbhai Bhurabhai Barad, 16, Rajput Vas, At. Bol, Taluka - Sanand, Dist. Ahmedabad-382170. PAN: ANYPB0201D
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(Applicant)		(Respondent)
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Revenue by :	Shri Purushottam Kumar, Sr. D.R
Assessee by :	Shri Sanjay R. Shah, with Shri S.K. Sadhwani, A.Rs

सुनवाई की तारीख / **Date of Hearing** : **24/03/2022**
घोषणा की तारीख / **Date of Pronouncement**: **20/04/2022**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Revenue against the order of the Learned Commissioner of Income Tax(Appeals)-3, Ahmedabad, dated 16/10/2017 arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2014-2015.

2. The only issue raised by the revenue is that the learned CIT-A erred in deleting the addition made by the AO for ₹ 1.59 crores on account of unexplained cash credit under section 68 of the Act.

3. The facts in brief are that the assessee in the present case is an agriculturist and an advocate. The assessee has deposited the amount of cash in his different bank accounts amounting to ₹ 1,59,00,000.00 in the year under consideration. On question by the AO about the source of cash deposits, the assessee submitted that he has received compensation against compulsory agricultural land acquisition of ₹ 4,09,27,018.00 in August 2010 from GIDC, Government of Gujarat. According to the assessee, the source of the amount of cash deposit in the bank account was out of such compensation received by him.

3.1 However, the AO disregarded the contention of the assessee by observing that the assessee failed to establish the nexus between the amount of compensation and the cash deposited in the year under consideration in the bank accounts. Likewise, the AO also observed that the amount of available cash in hand was not reflecting in the income tax return filed by the assessee for the assessment year 2011-12 to 2014-15. Thus the AO treated the amount of cash deposit as unexplained cash credit and added to the total income of the assessee.

4. Aggrieved assessee preferred an appeal to the learned CIT-A.

5. The assessee before the learned CIT-A submitted that there is no requirement to furnish the details of the cash in hand and immovable properties in the return of income where the total income is less than ₹25 lakhs. As such the income of the assessee stands at ₹ 4,05,460.00 for the year under consideration. Therefore the availability of cash details were not furnished in the return of income. Besides the above the assessee also contended that he has furnished the details of the cash deposits and withdrawn from the bank right from the financial year 2010

11 to 2013-14 to justify the source of cash deposited in the bank. But the AO has not considered the same as well as he has not pointed out any defect therein.

6. The learned CIT-A after considering the submission of the assessee deleted the addition made by the AO after making a reference to the cash book filed by the assessee for the years beginning from 2010-11 to 2013-14. According to the learned CIT-A, there was sufficient cash available with the assessee in the year under consideration which has been utilized for the deposits in the bank account. Hence the learned CIT-A allowed the appeal filed by the assessee.

7. Being aggrieved by the order of the learned CIT-A, the Revenue is in appeal before us.

8. Both the learned DR and the AR before us vehemently supported the order of the authorities below as favourable to them.

9. We have heard the rival contentions of both the parties and perused the materials available on record. There is no dispute that the assessee has received compensation in the earlier years amounting to ₹ 4,09,27,018.00. According to the assessee, he has withdrawn the amount in cash out of such compensation at different point of time which was utilized in the bank account of the assessee. The assessee in support of his contention has filed the summery of cash book which is available on pages 121 to 122 of the paper book. Likewise, we also note that the learned CIT-A in his order has produced the cash book for the year under consideration to justify the source of cash deposit in the bank account of the assessee. At the time of hearing, the learned AR has not pointed out any defect in the order of learned CIT-A.

9.1 Indeed, no prudent man withdraws the cash from the bank to keep in the home and re-deposits the same in the bank on a later date. But there is no

prohibition under any law for doing so. Once the assessee has discharged his onus based on the documentary evidence about the source of cash deposit, the onus shifts upon the Revenue to prove the contention of the assessee wrong. It was the duty upon the revenue to bring on record based on cogent reasons that the amount of cash deposited by the assessee was not pertaining to the compensation received by him the year 2010. There is no evidence brought on record by the revenue suggesting that the assessee has utilized the impugned amount of cash available in hand either in any investment or incurred for personal purposes.

9.2 Admittedly, the assessee has not disclosed the amount of cash available with him in the income tax return but to our understanding this cannot be a reason for rejecting the contention of the assessee and drawing the inference that the assessee has deposited the cash from the unexplained sources. Nondisclosure of cash in hand in the income tax return may lead to a doubt which requires to carry out detailed investigation but the same cannot become evidence for holding that the amount of cash deposited in the bank was from unexplained sources.

9.3 In view of the above and in the absence of necessary documentary evidence, we find no infirmity in the order of the learned CIT-A. Accordingly we confirm the same and direct the AO to delete the addition made by him. Hence the ground of appeal of the revenue is hereby dismissed.

10. In the result, the appeal filed by the Revenue is **dismissed**.

Order pronounced in the Court on 20/04/2022 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

(True Copy)
Ahmedabad; Dated 20/04/2022
Manish