

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ
**IN THE INCOME TAX APPELLATE TRIBUNAL,
"D" BENCH, AHMEDABAD**

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

आयकर अपील सं./ITA No.1520/AHD/2019
निर्धारण वर्ष/Asstt. Year:2011-2012

Shri Kamalkumar Indubhai Gadhavi, E-22, Sahjanand-2, Girls School Road, Bavla, Ahmedabad-382220. PAN: ARVPG6422C	Vs.	I.T.O, Ward-3(2)(2), Ahmedabad.
--	-----	---------------------------------------

(Applicant)		(Respondent)
--------------------	--	---------------------

Assessee by :	Shri A.C. Shah, with Shri Bhadrash Gandhakwala, A.Rs
Revenue by :	Shri Atul Pandey, Sr.D.R

सुनवाई की तारीख / **Date of Hearing** : **13/07/2022**
घोषणा की तारीख / **Date of Pronouncement**: **20/07/2022**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals)-3, Ahmedabad, dated 30/08/2019 arising in the matter of assessment order passed under s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2011-2012.

2. The only issue raised by the assessee is that the Ld. CIT(A) erred in confirming the addition made by the AO for Rs. 20,14,821/- representing the deposit of cash in the bank account.

3. The facts in brief are that the assessee in the present case is an individual and claim to be engaged in the business of agricultural operation. There was, inter-alia, deposit of cash amounting to Rs.20,14,821/- in the bank, source of which was explained by the assessee from the agricultural operation. However, the assessee in support of his contention has not filed any supportive document. Thus, the same was treated as unexplained cash credit u/s 68 of the Act, by the AO which was added to the total income of the assessee.

4. The aggrieved assessee preferred an appeal to the Ld.CIT(A), who confirmed the order of the AO by observing as under:

*3.10. As regards cash deposit of Rs.20.14.821A the appellant failed to furnish the source **and genuineness of such** cash deposit in bank account no. 073710031326 with Dena Bank. During remand proceedings the AO has reported that sufficient opportunities were given to the appellant to submit supporting evidence in respect of source of credit entries and cash deposits in bank account. Now the appellant has come with the content/on that the **credit** entries in the bank account are the gifts received from various family members. It is an afterthought of the appellant that he has submitted the source of cash deposit during assessment proceedings. The appellant has **tried to** present colorful device by submitting gin confirmation of his family members in respect of source of cash deposit. In the instant appeal, the appellant has miserably failed to explain the source of the deposit in the bank accounts. In view of the above mentioned facts which clearly held that for source of credit u/s. 68 of the IT Act it is the primary duty of the assessee to establish the genuineness. Therefore, this is nothing but only an afterthought of appellant. In view of these facts, the addition made by the for unexplained cash **deposit** of Rs.20,14,821/- **is hereby confirmed**. The grounds of appeal are partly allowed.*

5. Being aggrieved by the order of the Ld.CIT(A) the assessee is in appeal before us.

6. The Ld. AR before us filed a paper book running from pages 1 to 25 and contended that the assessee by mistake has submitted before the AO that the

amount of cash deposit was received from the agricultural operation. As such the source of cash deposit was representing the gift received from the relatives.

6.1 The Ld. AR in support of his contention has filed the details justifying the source of money in the hands of the gift donors along with the confirmation which are available on record.

7. On the other hand the Ld. DR vehemently supported the order of the authorities below:

8. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the assessee before the AO has submitted to have received money from the agricultural operation which was utilized in making the deposit in the bank account whereas the assessee before the Ld.CIT(A) has changed his stand by submitting that cash was deposited out of gifts received from relatives.

8.1 With respect to receipt of gifts, we note that assessee has furnished necessary documents of the parties such as bank statement and confirmation of gift which are placed on pages 6 to 20 of the paper book. Admittedly, all the gift donors are relatives of the assessee and source of money in their respective hands have has not been doubted. As such there were ancestral land sold by the assessee and the proceeds of the sale were allotted/distributed among the family members. The sale of ancestral property was nowhere doubted. Accordingly, we hold that there were sufficient cash available in the hands of the parties who have given gift to the assessee.

8.2 All these facts were not controverted by the Ld. DR appearing on behalf of the Revenue. Thus, the source of the cash deposit cannot be doubted merely on the reasoning there was a change in stand of the assessee after ignoring the glaring

fact as discussed above. Hence, we set aside the findings of the Ld. CIT(A) and direct the AO to delete the addition made by him. Hence, the ground of appeal of the assessee is allowed.

9. In the result, the appeal filed by the assessee is **allowed**.

Order pronounced in the Court on 20/07/2022 at Ahmedabad.

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

(True Copy)

Ahmedabad; Dated 20/07/2022
Manish