

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "SMC", LUCKNOW**

**BEFORE SHRI T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No. 25/Lkw/2022  
Assessment Year 2015-16

Mrs. Nidhi Makhija, 133/234, Transport Nagar, Kanpur 208023 PAN – AAVPM 5250F (Appellant)	Vs.	Income Tax Officer 1(3)(5), Income Tax Department, Kanpur  (Respondent)
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Appellant by	Shri Pradeep Kumar Sahgal, Advocate
Respondent by	Shri Harish Gidwani, DR
Date of hearing	19/07/2022
Date of pronouncement	27/07/2022

**ORDER**

This is an appeal filed by the assessee against the order of Id. CIT(A) dated 02.12.2021. The grounds of appeal taken by the assessee are reproduced below:

- "1. That the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as 'the CIT(A), NFAC) has been arbitrary and unjust in sustaining the addition of Rs.14,75,580 made by the learned AO by complete disregard to the explanation and material placed before him by the appellant. Such addition being sustained solely for his subjective opinion and for theoretical consideration, thus the same deserves to be deleted.*
- 2. That as the appellant had duly explained the nature and source of the cash aggregating to Rs.14,75,580 deposited in her savings bank account with UCO Bank, Kanpur, thus the authorities below have erred both in law and on facts in treating such explained cash deposited as alleged undisclosed income of the appellant U/S 69A of the Act that too solely on the basis of suspicion, surmises and conjectures, which may kindly be deleted.*

3. *That the cash aggregating to Rs. 14,75,580 deposited by the appellant in her savings bank account with UCO Bank, Kanpur being made out of her investments appearing as on 01.04.2014, income declared/disclosed for P.Y.2014-15 and other explained sources, thus the learned CIT(A), NFAC has been arbitrary and unjust in upholding the addition of Rs. 14,75,580 made by the learned AO by treating such genuine/explained cash deposited as alleged undisclosed income of the appellant, by misapplying provisions laid down U/S 69A of the Act and thus such addition is unsustainable, which may kindly be deleted.*
4. *That without prejudice to the foregoing grounds, as on account of corona pandemic, despite best possible efforts made, the appellant was prevented from defending her case properly and judiciously before authorities below, thus in view of principles of equity and natural justice the case of the appellant be kindly restored back to learned AO.*
5. *That the appellate order dated 2<sup>nd</sup> December, 2021 bearing DIN & Order No.: ITBA/NFAC/S/250/2021-22/1037442832(1) passed by the learned CIT(A), NFAC is against the law and facts of the appellant's case.*

*The appellant also seeks permission to modify and/or adduce any other ground/grounds of appeal as the circumstances of the case might require or justify.”*

2. The Id. AR, at the outset, submitted that assessee had deposited an amount of Rs.14,75,580/- in her saving bank account which the authorities below has held to be unexplained investments u/s.69A of the Act. It was submitted that assessee is a regular income tax assessee and has been filing income tax returns for the last more than six years and has been preparing personal balance sheets for the last so many years and copy of which was placed at PB pgs. 67 to 80. It was submitted that in the balance sheet the assessee has been reflecting the investment in business under the head investment in business and during the year under consideration, the assessee had liquidated certain business assets and had deposited the amount in her bank account for further purchase of a property and in this respect our attention was invited to PB pgs.81 to 83, where balance sheet for the year ending 31.3.2015 along with investment in business account was placed. It was submitted that the total investment in the business as on 01.4.2014 was Rs.19,75,580/- out of which the assessee had liquidated

investments amounting to Rs.15,75,580/- and out of this amount, the amount of Rs.14,75,580/- was deposited in the saving bank account which the authorities below has wrongly held as unexplained investment u/s.69A of the Act. The Id. AR submitted that the investment in business represented loans and advances, sundry debtors and old stock of ladies garments and children wear, which business the assessee had discontinued. The Id. AR submitted that the assessee was not well aware with the provisions of the Act and had engaged a professional, who died during the assessment proceedings and therefore, the case of the assessee was represented by his junior and he was not able to explain the facts of the case correctly and therefore, it was prayed that the matter may be set aside to Assessing Officer for readjudication on the issue as the assessee has in her possession all the relevant material to justify the deposits in the bank.

3. The Id. DR, on the other hand, relied on the orders of authorities below and submitted that the assessee was not able to explain the authorities below as to what business she was carrying out and in the columns of income tax return no columns relating to debtors loans and advances and stock was filled up and therefore the authorities below has rightly made and **sustained** the addition as unexplained investment. The Id. AR in his rejoinder submitted that the assessee had omitted to fill up the columns of the ITR but the fact remains that the assessee had been carrying on the business which she liquidated and deposited the amount in her bank account.

4. I have heard the rival parties and have gone through the material placed on record. I find that before the Assessing Officer the assessee explained that the amount deposited in the bank represented the liquidation of business assets but did not disclose about the nature of business. The Assessing Officer further observed that in the relevant columns of ITR no closing or opening balance of investment in business and nor any figure relating to debtors and stock was filled

in the balance sheet of ITR and therefore, he made the additions u/s. 69A of the Act.

5. On appeal before Id. CIT(A), the assessee again reiterated through the grounds of appeal but did not appear before Id. CIT(A) nor filed any written submissions despite of the fact that Id. CIT(A) has allowed several opportunities and therefore Id. CIT(A) dismissed the appeal of the assessee.

6. Before me, the Id. AR has placed on record copies of balance sheet along with capital account w.e.f. 31.3.2006 to 31.3.2015 and has also filed a copy of cash account from 01.4.2009 to 31.3.2015. Besides the above documents, the Id. AR has filed copy of investment in business, wherein in the balance sheet as on 31.3.2015, the assessee had reflected investment in business to the extent of Rs.19,75,000/-. The Id. AR before me has explained that the columns in the ITR were left blank due to the poor knowledge of the assessee and the assessee had all the evidences to demonstrate that she was carrying on the business, which she had liquidated and had received the payments from the liquidation of business assets and had deposited the same in the bank account.

7. In view of the facts and circumstances, I deem it fit to remit the issue back to the office of Assessing Officer who should readjudicate the issue after keeping in view the submissions of the assessee and further documents in support of her claim that the said deposits were made out of liquidation of business.

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

(Order pronounced in the open court on 27/07/2022)

**Sd/-**  
**(T.S. Kapoor)**  
**Accountant Member**

Aks -  
Dtd. 27/07/2022

*Copy of order forwarded to:*

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|--|---------------------------|
| <i>(1) The appellant</i>               | <i>(2) The respondent</i> |
| <i>(3) Commissioner</i>                | <i>(4) CIT(A)</i>         |
| <i>(5) Departmental Representative</i> | <i>(6) Guard File</i>     |

Assistant Registrar