

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 306/Ahd/2021
Assessment Year 2017-18**

Kavitaben Chintanbhai Patel 'Saviram'-4, Gandhikunj Society, Ellisbridge, Ahmedabad-380006 PAN No: APVPP1490F (Appellant)	Vs	The Income-tax Officer, Ward-5(2)(3), Ahmedabad (Respondent)
---	----	--

**Appellant by : Ms. Arti N Shah, A.R.
Respondent by : Ms. Sudhiksha Rani, Sr.D.R.**

Date of hearing : 08-07-2022
Date of pronouncement : 03-08-2022

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

The present appeal has been filed by the Assessee against the order dated 01.11.2021 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "NFAC"), against the order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2017-18.

2. The brief facts of the case is that the assessee is an individual and filed her Return of Income for the Assessment Year 2017-18 admitting a gross total income of Rs. 4,07,922/- which comprises of salary income of Rs. 3,60,000/-, the income from other sources of Rs. 47,922/-. The return of income was selected for scrutiny assessment for cash deposit during the demonetization period.

2.1. The assessee deposited in Old currency notes of Rs. 2000 and Rs. 500/- on a sum of Rs. 10,00,000/- on 11.11.2016 and on 15.11.2016 cash of Rs. 2,75,000/-. The assessee was served with a notice u/s. 142(1) asking for the above cash deposits, the assessee furnished copy of cash book and Balance sheet as on 31.03.2017 wherein the opening balance of Rs. 12,98,000/- in the balance sheet. The assessee shown Rs. 50,00,000/- as opening balance from the Financial Year 2015-16 and the same was carried forward. The assessee submitted that the cash deposited during the demonetization period was from the cash withdrawn on 2.01.2014. Since the cash deposited is not explained properly one more show cause notice was issued on 01.12.2019 requesting the assessee to explain the above cash deposits.

2.2. In response to the show cause notice, the assessee filed an adjournment letter for one week. As there was no response from the assessee, the assessing officer held that the assessee has no further explanation to offer, regarding the sources of cash deposit amounting to Rs. 12,75,000/- and the same was added as

unexplained money u/s. 69A of the Act and the assessed income as Rs. 15,26,590/- and demanded tax thereon.

3. Aggrieved against the same, the assessee filed an appeal before the Ld. CIT(A). The appeal was subsequently migrated to National Faceless Appellate Centre.

3.1. In response to the various hearing notices, the assessee filed her written submissions. The assessee claimed that she obtained loan of Rs. 50,00,000/- from her employer M/s. Ramesh Corporation (PAN AACFR1745B) in December, 2013 by RTGS and credited in the bank account. That loan amount of Rs. 50,00,000/- was withdrawn on 02.01.2014 to meet some anticipated family exigencies. Quite a long time, no such exigency materialized or arose and the cash withdrawn remained in the hands of the assessee. Thereafter the assessee deposited cash amounting to Rs. 37,00,000/- in the bank account with Bank of Baroda, Gandhinagar Branch on various dates from November, 2015 to March, 2016. Accordingly, there was a cash balance of Rs. 12,98,000/- available as cash in hand in the cash book as on 31.03.2016 which is the opening cash balance. This cash balance is said to be deposited a sum of Rs. 10,00,000/- on 11.11.2016 and Rs. 2,75,000/- was deposited on 15.11.2016 in Old currency denomination of Rs. 2000/- and Rs. 500/-.

3.2. After considering the above written submissions, the NFAC held that the issue of huge cash withdrawal in the year 2014 and

subsequent deposits in the bank made the whole transactions suspicious in nature. The assessee has neither provided sufficient evidence for justification before the A.O. during the appellate proceeding. In spite of opportunity given to the assessee, the assessee has failed to discharge the onus of providing justifications in the books of accounts. The assessee being an individual having income from salary and other sources. The nature of activities of the assessee it is hard to understand, need for moving cash from one hand to other hand and movements of the cash from bank to book and vice-versa. Therefore the addition made by the Assessing Officer has been confirmed and dismissed the assessee's appeal.

4. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

1. The Ld. Commissioner of Income Tax (Appeals) has erred in law and on facts of the case of the Appellant by confirming the addition made by the Ld. Assessing Officer on the ground that amount of cash of Rs. 12,75,000/- deposited in bank account of the Appellant during the demonetization period is unexplained cash credits U/S.69A of the I.T. Act, 1961, made by the Appellant and requires to be added in the income of the Appellant.

2. Your Appellant, therefore, prays that the addition of Rs. 12,75,000/- made by the Ld. Assessing Officer and confirmed by the Ld. Commissioner of Income Tax (Appeals), may kindly be deleted fully.

4.1. The Ld. Counsel for the assessee Ms. Arti N. Shah submitted a Paper Book and Compilation of case laws before us. Ld. Counsel also taken us through ledger account of the assessee and bank passbook of the assessee with Bank of Baroda and reply filed by the assessee before the Assessing Officer on 11.11.2019 that the loan of Rs. 50,00,000/- received from M/s. Ramesh Corporation

which is engaged in Automobile business. The loan amount of Rs. 50,00,000/- withdrawn on 02.01.2014 and redeposited a sum of Rs. 37,00,000/- in Bank of Baroda from November 2015 to March, 2016. Thus there was an opening balance of cash of Rs. 12,98,000/-, was available with the assessee and the same has been deposited during the demonetization period. A sum of Rs. 10,00,000/- on 11.11.2016 and Rs. 2,75,000/- on 15.11.2016 deposited in Bank being the demonetized currency notes of Rs. 500/- and Rs. 1000/- in denomination. The assessee also produced the salary income received through bank transactions from M/s. Ramesh Corporation. Thus the Ld. A.R. pleaded that the cash in hand was Old demonetized currency of Rs. 500/- and Rs. 1000/- in denomination have been remitted in the bank account during the Financial Year, for which the source is being properly explained by the assessee with ledger accounts, bank passbook and confirmations etc, therefore the same cannot be added as unexplained money u/s. 69A of the Act and the addition is liable to be deleted.

5. In support of the same, the assessee relied upon the Jurisdictional High Court judgment dated 25.11.2013 in the case of CIT vs. Shaileshkumar Rasiklal Mehta in Tax Appeal Nos. 977 to 980 of 2013. The assessee also relied upon another judgment of Hon'ble Gujarat High Court in the case of CIT vs. Manoj Indravadan Chokshi reported in [2014] 50 taxmann.com 419 wherein the Hon'ble High Court held that one source of cash

deposit in bank account is explained, subsequent withdrawn is not required to be explained. Therefore no addition can be made.

6. Per contra the ld. D.R. appearing for the Revenue supported the order passed by the lower authorities and requested to sustain the addition made by the Assessing Officer.

7. We have given our thoughtful consideration and perused the materials available on record including Paper Book and the Case Laws filed by the assessee. The cash loan of Rs. 50,00,000/- said to be received by the assessee from Ramesh Corporation is being clearly reflecting in the bank account of the assessee and the assessee had withdrawn Rs. 50,00,000/- on 02.01.2014. The assessee submission of redeposit of a sum of Rs. 37,00,000/- in her bank account of Bank of Baroda is also reflecting in the bank statement. So, the remaining cash in hand of Rs. 12,78,000/- in which the assessee made deposit of Rs. 12,75,000/- during the demonetization period. The assessee's explanation that the demonetized currency notes of Rs. 500/- and Rs. 2000/- available with the assessee as cash in hand were being deposited during the demonetization period. Thus the same cannot be treated as not properly explained by the assessee. As it can be seen from the bank statement, the source of withdrawal of the money is being clearly demonstrated and their deposit of money on various occasions is also established by the assessee through her bank account. The same cannot be doubted by the Assessing Officer as unexplained money.

8. Further the Jurisdictional High Court in the case of Shaileshkumar Rasiklal Mehta cited above held as follows:

“The CIT(A) while deleting the additions made by the Assessing Officer, it appears that on appreciation of evidence and considering the fact that the additions made by the Assessing Officer routed through the Bank and the assessee explained the source of income and considering the same the CIT(A) has deleted the additions made by the Assessing Officer, which was made by the Assessing Officer treating the same as undisclosed income. The assessee successfully proved the source of income and the same was routed through the Bank. Thus, the Assessing Officer was not justified in treating the same as undisclosed income and in making the additions under Section 68 of the Income Tax Act.

4. We are in complete agreement with the reasoning and the views taken by the CIT(A) as well as the ITAT in deleting the additions made by the Assessing Officer under Section 68 of the Income Tax Act. As such, no question of law, much less substantial question of law arises in the present appeals as the findings given by the CIT(A) confirmed by the ITAT are on appreciation of evidence. Under the circumstances, all the appeals deserve to be dismissed and are accordingly dismissed.

8.1. Similarly in the case of Manoj Indravadan Chokshi the jurisdictional High Court of Gujarat held as follows:

“... The contention of the assessee is that the amount was kept as cash in hand. The authorities have doubted about the explanation furnished by the assessee. The authorities below have doubted the source of the cash deposits, however, the contention of the Id. counsel for the assessee is that he had withdrawn the amount from his bank account and there is no finding by the authorities below that the cash withdrawn by the assessee was utilized for any other purpose. In the absence of such finding, addition is not justified. We find merit into the contention of the Id. counsel for the assessee that there is no dispute that the amount which was withdrawn by the assessee on various dates during the year 2006 was available with him for making deposits. In the absence of finding that the amount which was previously withdrawn by the assessee had been utilized for any other purpose merely on the basis of conjecture that the amount might have been utilized for any other-purpose and was not available with the assessee for making the deposits, we are unable to accept the reasoning of the authorities below. In our considered view, when the assessee has demonstrated that he had withdrawn cash from the bank and there is no finding by the authorities below that this cash available with the assessee was invested or utilized for any other

purpose, in that event, it is not open to the authority to make the addition on the basis that the assessee failed to explain the source of deposits. Moreover, the authorities below have not disputed the fact that the assessee had withdrawn amount of Rs.9,10,000/- before the deposits made on various dates during the FY 2007-08. Therefore, the orders of the authorities below are set aside and the AO is directed to delete the addition. Thus, ground raised in the assessee's appeal is allowed.

9. Respectfully following the above judicial precedents, we have no hesitation in allowing the grounds raised by the assessee and the impugned addition made by the Assessing Officer of Rs. 12,75,000/- u/s. 69A is hereby deleted.

10. In the result, appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 03-08-2022

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 03/08/2022

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद