

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'SMC' NEW DELHI**

**SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.1694/Del/2021  
Assessment Year: 2010-11

Jitender Kumar, BR-21, Sector-45, Noida (UP) PIN: 201301	<b>Vs.</b>	ITO, Ward-1(5), Noida
<b>PAN : BDEPK7979N</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Ms. Kamna Chauhan, Advocate Sh. Pradeep Chauhan, CA
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	01.06.2022
Date of pronouncement	26.08.2022

**ORDER**

This is an appeal by the assessee against order dated 21.09.2021 passed by National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2010-11.

2. The dispute in the present appeal is confined to addition of an amount of Rs.10,00,000 as unexplained money under Section 69 of the Income-Tax Act, 1961.

3. Briefly, the facts are that the assessee is a resident individual, stated to be carrying on business as civil contractor.

4. For the assessment year under dispute, the assessee did not file any return of income voluntarily on the plea that he didn't have any taxable income. Subsequently, the assessing officer received information that during the year under consideration assessee has deposited cash amounting to Rs.21,17,000 in Saving Bank Account maintained with Mahamedha Urban Co-operative Bank, Noida. Based on such information, the assessing officer reopened the assessment under Section 147 of the Act. As observed by the assessing officer, various statutory notices issued under Section 148 and 142(1) of the Act were not complied with by the assessee. Therefore, the assessing officer proceeded to complete the assessment by invoking the provisions of section 144 of the Act. While doing so, he added back the amount of Rs.21,17,000 to the income of the assessee.

5. Against the assessment order so passed, the assessee preferred an appeal before learned Commissioner (Appeals).

6. After considering the submissions of assessee in the context of facts and material on record, learned Commissioner (Appeals) reduced the addition to Rs.11,17,000.

7. I have considered rival submissions and perused the material available on record.

8. Undisputedly, before the assessing officer, neither the assessee appeared nor furnished any material to explain the source of cash deposit in the bank account. However, before learned first appellate authority, the assessee did explain the source of cash deposit to be out of the contractual receipts.

9. A reading of the impugned order of learned Commissioner (Appeals) makes it clear that he has partly accepted the claim of assessee regarding availability of contractual receipts for deposit in the bank account. Accordingly, he has granted credit of Rs.10,00,000 only. However, as it appears, this is on purely ad hoc basis. Learned Commissioner (Appeals) has not provided any reason why he quantified the explained deposit to the extent of Rs.10,00,000 only and not any other figure.

10. Before me, learned counsel appearing for the assessee has submitted that the difference between the figure of contract receipts and the actual cash deposit in the bank account was due to redeposit of earlier withdrawals.

11. I find the aforesaid explanation of the assessee plausible. Since, learned Commissioner (Appeals) has not found the explanation of the assessee completely untrustworthy and has not provided any reason for accepting deposits to the extent of Rs.10,00,000 as explained, I am of the view that even a part of the addition made purely on conjunctures and surmises cannot be sustained. Accordingly, I delete the addition. Grounds are allowed.

12. In the result, the appeal is allowed.

***Order pronounced in the open court on 26<sup>th</sup> August, 2022.***

***Sd/-***  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 26<sup>th</sup> August, 2022.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

<b>Sl. No.</b>	<b>Particulars</b>	<b>Date</b>
1.	Date of dictation (Order drafted through Dragon software):	18.08.2022
2.	Date on which the draft of order is placed before the Dictating Member:	23.08.2022
3.	Date on which the draft of order is placed before the other Member:	
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	25 .08.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	25 .08.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	26.08.2022
7.	Date on which the final order is uploaded on the website of ITAT:	29.08.2022
8.	Date on which the file goes to the Bench Clerk	29.08.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	