

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD
BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No.218/Ahd/2022
Asstt.Year : 2017-18

Devrajbhai Arjanbhai Rabari 4/17, Rabarivas At-Bapiyara Ta.Kadi Kadi - 382 721 PAN : AQGPR 6725 F	Vs	ITO, Ward-5 Mehsana.
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(Applicant)	(Responent)
Assessee by :	Shri S.N. Divatia, AR
Revenue by :	Shri Mukesh Thawani

सुनवाई की तारीख/Date of Hearing : 07/09/2022
घोषणा की तारीख /Date of Pronouncement: 08/09/2022

आदेश/O R D E R

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC) (in short referred to as Id.CIT(A) under section 250 of the Income Tax Act, 1961 ("the Act" for short), dated 30.3.2022 pertaining to Asst.Year 2017-18.

2. Sole issue in the present appeal relates to cash deposit in the bank account of the assessee amounting to Rs.1,83,578/- which remained unexplained.

3. The facts of the case are that the cash was found deposited in the bank account during demonetization period. These cash deposits were made in crop loan account of the assessee. The

assessee had responded to query raised with regards to the same by the Assessing Officer (AO) during assessment proceedings stating that the same had been made out of his agricultural income. But evidence filed in support were found to be not genuine to the extent of Rs.1,83,578/-, and accordingly addition to this extent was made to the income of the assessee, holding that cash deposits in his account of this amount had remained unexplained. The Id.CIT(A) upheld the order of the AO.

4. Before me, the Id.counsel for the assessee pointed out that it had been submitted to the authorities below that this crop loan account was existing in the name of the assessee since financial year 2014-15 and 2015-16 also, wherein it was duly reflected that every year loan of approximately Rs.10 lakhs was taken and repaid in cash. Further, he pointed out that it had been shown to the authorities below that the assessee had sufficient land holding, and copies of Form No.8A and Form No.7 of the land showing his land holding and agriculture activities therein was filed. He also pointed out that a certificate from *sarpanch* of his village was also filed, who has confirmed agriculture activities carried out by the assessee to the extent of approx. Rs.10 lakhs. Our attention was drawn to the letter filed before the AO, and the evidence in support of his contentions, as pointed out above, placed before us at PB page No.1 to 23. The Id.counsel for the assessee pointed out that his explanation of the source of cash deposits was rejected merely relying upon bills of agriculture produce sold being found ingenuine, without considering other explanation, and therefore, the impugned addition needs to be deleted. The Id.DR, however, relied on the order of the Id.CIT(A).

5. I have considered contentions of the both the parties. I have noted from the orders of the authorities below that addition on account of cash deposits has been made solely for the reason that bill of agriculture produce submitted by the assessee as proof of agriculture income earned being source of cash deposits was found to be not genuine to the extent of Rs.1,83,578/-. But I have also noted that this was not the only basis with the assessee for justifying the source of cash deposits from agricultural activities. The assessee had also submitted documents evidencing land holding in his name along evidencing the fact that agricultural activities was carried out therein. He had also submitted certificate from the *sarpanch* of the Village-Panchayat certifying his land holding and crop being cultivated therein and also the estimated income earned by him from the same being approx 10 lacs. He had also produced evidence of the fact that even in the preceding year i.e. in F.Y.2014-15 and 2015-16 also, the assessee had been taking crop loan of Rs.10 lakhs and repaying it in cash from his own source. I find that all these contentions of the assessee have sadly been ignored, and the addition has been upheld only for the reason that bills for the agriculture produce to the extent of Rs.1,83,578/- were found to ingenuine.

6. In the light of the fact that source of cash deposits was justified by other evidences also, which have not been even been considered by the Revenue, I hold that, addition made of cash deposits to the extent of Rs.1,83,578/- as not unexplained, is grossly unjustified and unfair and against all principles of natural

justice. I accordingly direct deletion of the same. Appeal of the assessee is allowed.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 08th September, 2022 at Ahmedabad.

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/9/2022

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