

आयकर अपीलीय अधिकरण
IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA

Before Dr. Manish Borad, Accountant Member

I.T.A. No. 417/KOL/2022
Assessment Year: 2017-2018

Rajiv Kumar Gupta,.....Appellant
38, Mott Lane Dharamtalla,
Near Jyoti Cinema,
Kolkata-700013
[PAN: ADLPG9236E]
-Vs.-

Income Tax Officer,.....Respondent
Ward-62(1), Kolkata,
Central Revenue Building,
Bamboo Villa,
169, A.J.C. Bose Road,
Kolkata-700014

Appearances by:

Shri Akkal Dudhwewala, FCA, for the Appellant
Shri Vijay Kumar, Addl. CIT, Sr. D.R., for the Respondent

Date of concluding the hearing : September 15, 2022
Date of pronouncing the order : September 20, 2022

आदेश

O R D E R

Per Dr. Manish Borad, Accountant Member:

This appeal at the instance of assessee for assessment year 2017-18 is directed against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 30.05.2022 passed under section 250 of the Income Tax Act, 1961.

2. From the perusal of grounds of appeal, the only grievance of the assessee is that the Id. CIT(Appeals) grossly erred in confirming the addition of Rs.14,23,500/- made by the Id. Assessing Officer on account of cash deposit in the Bank invoking section 69A of the Act.

3. Brief facts of the case are that the assessee is an individual and income of Rs.5,78,140/- was declared in the e-return for A.Y. 2017-18 filed on 07.03.2018. The case was selected for limited scrutiny for the reason cash deposit during demonetization period followed by serving notices under section 143(2)/142(1) of the Act. In the course of assessment proceedings, the assessee was confronted to explain the source of cash deposit of Rs.14,23,500/-. It was stated by the assessee that cash was withdrawn during the financial year 2015-16 totalling to Rs.18,00,000/- for the purpose of purchasing an agricultural land, but the deal did not materialise and the cash was lying in hand and the alleged cash was deposited during the demonetization period. The ld. Assessing Officer was not satisfied and made the addition of Rs.14,23,500/-. The assessee challenged the addition before the ld. CIT(Appeals) but failed to succeed. Now the assessee is in appeal before the Tribunal.

4. Ld. Counsel for the assessee reiterated the submissions made before the lower authorities He took us through the cash book at page no. 3 along with the bank statements filed at pages 5 to 8 and demonstrated that the cash of Rs.18,00,000/- (Rs.10,00,000 + Rs.2,00,000 + Rs.6,00,000) was withdrawn on three occasions on 29.03.2015, 27.01.2016 and 16.02.2016. This cash was withdrawn for purchasing an agricultural land in his native village but no deal took place and the cash was lying idle and the same was deposited in the Bank after the announcement of demonetization scheme. Ld. Counsel for the assessee relying on the decision of the Coordinate Bench, Mumbai in the case of *Anit Bapu Satam -vs.- DCIT in ITA No. 1599/Mum./2021 dated 29.08.2022*, decision in the case of *DCIT -vs.- Smt. Veena Awasthi (ITA No. 215/LKW/2016) dated 30.11.2018*, submitted that similar issues came up before the Coordinate Benches and cash withdrawals made earlier have been considered for explaining the cash deposits in the Bank Account.

5. Per contra, ld. Departmental Representative (in short ld. D.R.) supported the orders of both the lower authorities.

6. I have heard the rival contentions and perused the relevant material placed before me. The sole grievance of the assessee is that the ld. CIT(Appeals) erred in confirming the addition of Rs.14,23,500/- made by the ld. Assessing Officer under section 69A of the Act for unexplained cash deposited in the bank account during demonetization period. For explaining the alleged cash deposited in the Bank, the assessee has filed various details in the paper book. I have gone through the same and find that cash withdrawal during the financial years 2015-16 and 2016-17 shows that during the financial year 2015-16, cash of Rs.18,00,000/- was withdrawn and the same is claimed to be the source of cash deposit of Rs.14,23,500/- made during the demonetization period.

7. I observe that the assessee is a salaried employee and no other source of income is claimed by the assessee nor detected by the revenue authorities. The fact remains that the cash amount of Rs.18,00,000/- was withdrawn from the Bank account. There is no evidence filed by the revenue authorities to show that the said cash of Rs.18,00,000/- has been utilized by the assessee for any other purpose. The assessee's claim seems to be genuine that he wanted to purchase an agricultural land in his native village, but failed to find any agricultural land to purchase. The balance-sheet as on 31.03.2016 placed at page 1 of the paper book also indicates that the assessee had accumulated capital of Rs.42,63,103/- and on the assets side, the cash in hand is at Rs.16,81,933/- and the bank balance amount is of Rs.25,06,715/-. This fact indicates that the assessee is not in a regular habit to withdraw the fund from the Bank account as substantial balance in the bank is being maintained. On 31.03.2016, there is a cash in hand of Rs.16,81,933/-, which was available with the assessee during the financial year 2016-17 and the same is sufficient to explain the alleged cash deposited in the bank amounting to Rs.14,23,500/-. In the absence of any contrary material brought on record by the revenue authorities, I do not find any reason to reject the contention of the ld. Counsel for the assessee. I, therefore, hold that since the assessee has

explained the source of alleged cash deposit of Rs.14,23,500/-, no addition under section 69A was called for. I, therefore, reverse the finding of the Id. CIT(Appeals) and allow the sole issue raised by the assessee in Grounds No. 1 & 2 of this appeal.

8. Ground No. 3 is general in nature, which does not need any adjudication.

9. **In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on September 20, 2022.

Sd/-
(Manish Borad)
Accountant Member
Kolkata, the 20th day of September, 2022

- Copies to : (1) **Rajiv Kumar Gupta,**
38, Mott Lane Dharamtalla,
Near Jyoti Cinema, Kolkata-700013
- (2) **Income Tax Officer,**
Ward-62(1), Kolkata,
Central Revenue Building,
Bamboo Villa,
169, A.J.C. Bose Road, Kolkata-700014
- (3) *Commissioner of Income Tax (Appeals),*
National Faceless Appeal Centre (NFAC), Delhi,
- (4) *Commissioner of Income Tax- ,*
- (5) *The Departmental Representative*
- (6) *Guard File*

TRUE COPY

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.