

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

**Before Dr. Manish Borad, Accountant Member**

**I.T.A. No. 414/KOL/2022**  
**Assessment Year: 2017-2018**

**Swapan Chakraborty,.....Appellant**  
**C/o. Subash Agarwal & Associates, Advocates,**  
**Siddha Gibson, 1, Gibson Lane,**  
**2<sup>nd</sup> Floor, Room 213, Kolkata-700069**  
**[PAN: ACHPC9678H]**  
**-Vs.-**

**Income Tax Officer,.....Respondent**  
**Ward-52(4), Kolkata,**  
**Central Revenue Building,**  
**Bamboo Villa,**  
**169, A.J.C. Bose Road,**  
**Kolkata-700014**

**Appearances by:**

*Shri Siddharth Agarwal, Advocate, for the Appellant*  
*Shri Vijay Kumar, Addl. CIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : September 14, 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 25.05.2022 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.11,17,300/- out of the total addition of Rs.15,31,000/- 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 is a retired Government employee. The assessee filed his return of Income on 19.03.2018 disclosing total income of Rs.8,11,230/-. On the basis of information, it is noticed that there is a large amount of cash deposited in the bank during demonetization period as compared to the returned income. The assessee's case was selected for scrutiny assessment under CASS followed by serving statutory notices. During the course of assessment proceedings, the ld. Assessing Officer confronted the assessee to explain the source of cash amounting to Rs.15,31,000/- deposited in the Bank Account during the demonetization period. The assessee made necessary submission stating that he received all retirement proceeds during the period from June, 2015 to October, 2015 and he also withdrew substantial cash from June, 2015 to October, 2015 and this was the source of alleged cash deposited in the bank. The ld. Assessing Officer was not satisfied with the submission of the assessee and he made the addition of Rs.15,31,000/- as undisclosed income under section 69A of the Act and assessed income at Rs.23,42,230/-.

4. Being not satisfied, the assessee challenged this addition before the ld. CIT(Appeals), who partly allowed relief to the assessee amounting to Rs.4,13,700/-, which was the amount withdrawn by the assessee during the period 31<sup>st</sup> October, 2015 to 27<sup>th</sup> October, 2016.

5. Being aggrieved, the assessee is now in appeal before the Tribunal against the remaining addition of Rs.11,17,300/- sustained by the ld. CIT(Appeals).

6. Ld. Counsel for the assessee submitted that the assessee is a retired Government employee and his main source of income is pension from Information & Broadcasting Department. He also stated that the assessee mostly remains ill as he is also suffering from various diseases. Ld. Counsel also submitted that the assessee mostly remains in fear due to continuous Bank scam and online fraud and since he has no other source of income except pension, the assessee used to withdraw cash from the

Bank. He also took us through the Bank statement showing that substantial cash was withdrawn amounting to Rs.18,07,000/- during the period 30.06.2015 to 09.10.2015 and the cash was lying with him and subsequent to the announcement of demonetization, the assessee deposited the said amount and thus the source of the alleged cash deposited is duly explained.

7. Per contra, ld. D.R. submitted that there is no valid reason given by the assessee for keeping huge amount of cash in hand and also stated that if the assessee was ill and suffering from various diseases, then how he went to the Bank to deposit the cash on so many occasions. Ld. D.R. heavily relied on the finding of the ld. CIT(Appeals).

8. 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) grossly erred in confirming the addition for unexplained cash deposited in the bank amounting to Rs.11,17,300/- made by the ld. Assessing Officer invoking section 69A of the Act. I notice that the assessee is a retired Government employee and his only source of income is pension. His gross total income during the financial year 2012-13 to the financial year 2016-17 is ranging between Rs.4,00,000/- to Rs.8,00,000/-. Records are also placed before me to show that the assessee is ill and suffering from various diseases and often undergoes medical treatment. Before the lower authorities, the assessee has submitted the reason for holding the entire cash throughout the year for the fear of any online fraud because it came to his knowledge that various frauds have been made in Kolkata at SBI, Jadavpur Branch and Reserve Bank of India clearly mentioned that bank authority should not be liable for any kind of fraudulent activities done by hackers in any circumstances and nobody committed to get back their valuable money.

9. I also notice that during F.Y. 2015 -16, there is a credit of Rs.18,31,533/- in the account of Bank of Baroda. It was received towards

pension arrears, gratuity and other entitlements and the same sum was withdrawn from time to time during 30<sup>th</sup> June, 2015 to 9<sup>th</sup> October, 2015 totalling to Rs.18,07,000/-. There is no observation of the revenue authorities that the assessee has utilized the said sum for any other purpose. The Id. CIT(Appeals) gave part relief to the assessee for the sums withdrawn during the period from 31.10.2015 to 27.10.2016 but it is surprising to note that why the Id. CIT(Appeals) did not consider the cash withdrawals made during the period from 30.06.2015 to 09.10.2015. *Prima facie* it seems that the smaller amounts withdrawn by the assessee have been considered by the Id. CIT(Appeals) but the larger amounts have been left over. The Id. D.R. failed to controvert this fact that the Id. CIT(Appeals) has adopted choose and pick method to give part relief to the assessee.

10. I, therefore, under the given facts and circumstances and also considering the amount of cash withdrawn by the assessee during the period from 30.06.2015 to 09.10.2015 amounting to Rs.18,07,000/-, the source of which is not in dispute. I find merit in the contention of the Id. Counsel for the assessee that the assessee was withdrawing the cash from Bank and keeping it at home and subsequently when the demonetization scheme was announced, the assessee deposited the amount left over with him in the Bank account. I also hold that the cash withdrawn by the assessee during the period 30.06.2015 to 09.10.2015 is sufficient to explain the source of the alleged cash deposited in the Bank amounting to Rs.11,17,300/-. I, therefore, delete the addition of Rs.11,17,300/- made under section 69A of the Act by setting aside the finding of the Id. CIT(Appeals) and allow the appeal of the assessee.

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

Order pronounced in the open Court on September 20<sup>th</sup>, 2022.

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

- Copies to :*
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  - (2) **Income Tax Officer,**  
**Ward-52(4), 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.**