

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI PRAMOD M. JAGTAP, VICE PRESIDENT
&
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 98/Ahd/2022
(निर्धारण वर्ष / Assessment Year : 2017-18)

Jasumatiben Hamirbhai Rayka Plot No.186 C/o: Swastik Offset, Modhera Road, GIDC, Phase-I, Mehsana - 384002	बनाम/ Vs.	Income Tax Officer Ward-2, Mehsana
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAWPR4344L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Hrdik Vora, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Rakesh Jha, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	14/10/2022
घोषणा की तारीख /Date of Pronouncement	02/11/2022

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 14.07.2021 passed by the National Faceless Appeal Centre (NFAC), Delhi arising out of the order dated 09.12.2019 passed by the Income Tax

Officer, Ward-2, Mehsana under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') for Assessment Year 2017-18.

2. The appeal is time barred by 218 days. Due to Covid pandemic and prolonged lock down, the assessee was unable to file the appeal before us as submitted by the Ld. AR. However, the assessee in support of the condonation of delay relied upon the judgment of Hon'ble Supreme Court in M.A. No.21 of 2022 & Ors. in Suo Motu Writ Petition (C) No. 3 of 2020, considering which, we condone the delay.

3. During the course of assessment proceedings, it was found that the assessee made a cash deposit of Rs.8,25,000/- to the bank account during the demonetization period, the details whereof is as follows:

<i>Sr. No.</i>	<i>Name of the Bank</i>	<i>Account No.</i>	<i>Total cash deposited in demonetization period</i>	<i>Remarks</i>
<i>1</i>	<i>HDFC Bank</i>	<i>02381000102110</i>	<i>6,00,000/-</i>	<i>Withdrawal of Rs.1,00,000/- is justified and Rs.5,00,000/- is not justified for depositing cash.</i>
<i>2</i>	<i>Axis Bank</i>	<i>032010100638616</i>	<i>2,25,000/-</i>	<i>No justified entry for withdrawal.</i>
<i>Total</i>			<i>8,25,000/-</i>	

4. The assessee in reply to the show cause issued on 02.12.2019 submitted the cash book demonstrating the deposit of Rs.3,00,000/-, Rs.3,00,000/- &

Rs.2,25,000/- to HDFC Bank & Axis Bank on 11.05.2016, 17.05.2016 & 08.11.2016; respectively. Due to uncertainty of business and life, assessee required emergency cash for heavy medical expenses, the assessee had to maintain sufficient cash balance as of the explanation of the assessee before the Ld.AO though in respect of the same, no evidence has been brought on record. The assessee also transferred an amount of Rs.7,00,000/- to the account of Shri Snehal Kumar H. Rayka on 22.12.2016 and Rs.2,10,000/- on 27.12.2016. However, no expenditure has been shown by the assessee with supporting evidence, the explanation rendered by the assessee was not found to be acceptable, thus, addition under Section 69A of the Act on account of unaccounted income of Rs.7,25,000/- has been made. Considering only an amount of Rs.1,00,000/-, which was withdrawn on 08.11.2019 by the assessee was found justified. The same was further confirmed by the First Appellate Authority. Hence, the instant appeal before us.

5. In support of the contention made by the assessee, sufficient documents have been placed before us including the statement details of the assessee's banks namely Axis & HDFC establishing the fact of withdrawal of amount of Rs.3,00,000/-, Rs.3,00,000/- on 11.05.2016 and 17.05.2016 from HDFC Bank and further withdrawal amount of Rs.2,25,000/- in the month of Sept. 2016 to Nov. 2016 from Axis Bank. The above fact has been duly submitted before the authorities below as it also appears from the records available before us and further evident from the order passed by the authorities below. Thus, having regard to the facts and circumstances of the case, particularly, when the assessee has been able to justify the fact of cash deposit of out of withdrawal,

we do not find any justification in the addition made thereon. The addition is, therefore, not sustainable and hence, deleted.

6. In the result, assessee's appeal is allowed.

This Order pronounced on 02/11/2022

Sd/-
(P. M. JAGTAP)
VICE PRESIDENT
Ahmedabad; Dated 02/11/2022

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad