

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

SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.4887/Del/2019
Assessment Year: 2010-11

Ashok Kumar Narula L/H of Late Shri Satpal Narula, C/o. M/s. RRA Taxindia, D-28, South Extension, Part-1, New Delhi-1100 49	Vs.	Income-Tax Officer, Ward-3, Bhiwani.
PAN :ABJPN0935H		
(Appellant)		(Respondent)

Appellant by	Shri Naveen Kumar Goyal, CA
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	02.08.2022
Date of pronouncement	31.10.2022

ORDER

This is an appeal by the assessee against order dated 14.03.2019 of learned Commissioner of Income-Tax(Appeals)-5, Ludhiana for the assessment year 2010-11.

2. At the time of hearing, learned counsel for the assessee did not press ground nos. 1 to 3 and wanted to argue the appeal on merits. Accordingly, ground nos. 1 to 3 are dismissed as not pressed.

3. Ground nos. 4 and 5 are on the common issue of addition of Rs.43,68,622 representing cash deposits in the bank account.

4. Briefly, the facts are, the assessee, since deceased, was a resident individual. From the information available on record, the Assessing Officer came to know that in the year under consideration, assessee had deposited cash amounting to Rs.38,79,446 in different bank accounts maintained with HDFC Bank, Indian Overseas Bank and ICICI Bank. Based on such information, the Assessing Officer reopened the assessment under Section 147 of the Act. Alleging that despite several statutory notices being issued under Section 142(1) of the Act, the assessee did not respond and furnish the necessary details, the Assessing Officer proceeded to complete the assessment to the best of his judgment by invoking the provisions of section 144 of the Act. While doing so, he added back an amount of Rs.43,68,622 to the income of the assessee by treating it as unexplained cash credit under Section 68 of the Act. Though, the assessee contested the aforesaid addition before learned Commissioner (Appeals), however, he was unsuccessful.

5. Before me, learned counsel for the assessee submitted, since, the diseased assessee was ill, proper representation could

not be made before the Assessing Officer. However, he submitted, before the first appellate authority the assessee had explained the source of cash deposits through proper documentary evidence. Proceeding further, he submitted, in the relevant previous year, the assessee had sold certain properties and the consideration received was available for deposit. He submitted, though, relevant sale deeds were furnished before learned Commissioner (Appeals), however, he completely ignored such evidences. He submitted, while taking note of the cash deposits of Rs.43,68,622, the Assessing Officer has completely ignored the withdrawals made by the assessee during the year. He submitted, in addition to opening cash in hand and receipt from sale of property, the assessee had sufficient cash withdrawals. Therefore, he submitted, the source of cash deposits stand well explained. He submitted, since, the evidences furnished have not been considered by learned Commissioner (Appeals), matter may be restored back to the Assessing Officer.

6. Learned Departmental Representative submitted that the Assessing Officer can reexamine assessee's claim.

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

8. Undisputedly, the addition contested before me represents the cash deposits made by the assessee during the year in different bank accounts.

9. Before me, the learned counsel appearing for the assessee has explained the source of cash deposits by submitting a cash flow statement. On perusal of the said cash flow statement, it appears that the assessee had opening cash in hand of Rs.12,00,000 as on 01.04.2009. Withdrawals made during the year was to the tune of Rs.34,25,000. Besides, in the year under consideration the assessee had sold various properties from which sale consideration aggregating to Rs.23,31,000 was received. Further, the assessee had sold another property on 24.06.2008 from which sale consideration of Rs.8,40,000 was received. Apparently, assessee's claim that substantial amount was received from sale of properties, which was available for deposit in the bank accounts and also formed part of opening cash in hand has not at all been considered by learned Commissioner (Appeals).

10. Admittedly, the assessee did not furnish any evidence at the assessment stage. Before learned Commissioner (Appeals) only assessee furnished evidences to explain the source of cash

deposits. Therefore, the evidences furnished by assessee should have been properly verified by the learned Commissioner (Appeals), which has not been done.

11. In view of the aforesaid, I am inclined to restore the issue back to the Assessing Officer for fresh adjudication after considering assessee's claim qua the evidences brought on record.

12. Needless to mention, the Assessing Officer must provide reasonable opportunity of being heard to the assessee before deciding the issue. These grounds are allowed for statistical purposes.

13. Ground nos. 6 & 7 do not require adjudication.

14. In the result, appeal is partly allowed for statistical purposes.

Order pronounced in the open court on 31st October, 2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 31st October, 2022.
Mohan Lal

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	26.10.2022
2.	Date on which the draft of order is placed before the Dictating Member:	28.10.2022
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:	31.10.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	31.10.2022
6.	Date on which the final order received after having been signed/pronounced by the Members:	31.10.2022
7.	Date on which the final order is uploaded on the website of ITAT:	31.10.2022
8.	Date on which the file goes to the Bench Clerk	31.10.2022
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:	