

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.172/Ind/2022
Assessment Year: 2017-18

Ajeet alias Ajay Talreja Bhopal	<u>बनाम/</u> Vs.	ITO, 2(4) Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
PAN: ABVPT0768L		
Assessee by	Shri S.S. Deshpandey, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	21.09.2022	
Date of Pronouncement	14.10.2022	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 19.05.2022 passed by learned Commissioner of Income-Tax (Appeals)-National Faceless Appeal Centre, Delhi [**Ld. CIT(A)**], which in turn arises out of assessment-order dated 02.12.2019 passed by learned ITO, Ward-2(4), Bhopal [**Ld. AO**] u/s 143(3) of the Income-tax Act, 1961 [**the Act**] for Assessment-Year [**AY**] 2017-18, the assessee has filed this appeal on the grounds mentioned in Appeal Memo.

2. Heard the Ld. Representatives of both sides and perused the material held on record.

3. The assessee-individual filed return of relevant AY 2017-18 declaring a total income of Rs. 5,74,680/-. The case was selected under scrutiny through CASS to examine the “cash deposit during demonetization period”. Statutory notices u/s 143(2)/142(1) were issued from time to time which were responded by assessee. During assessment-proceeding, the assessee explained the sources of cash-deposits made in Bank but, however, the Ld. AO was not satisfied with the submission of assessee and finally made addition of Rs. 20,04,000/- treating cash-deposits as having been made from unexplained sources u/s 69A of the act. Aggrieved by assessment-order so passed by Ld. AO, the assessee filed first-appeal to Ld. CIT(A) but did not get any relief. Now, the assessee has come in next-appeal before us assailing the order of Ld. CIT(A).

4. By means of various grounds, the sole grievance of assessee is that the lower authorities have wrongly treated the cash-deposits of Rs. 20,04,000/- made in Bank as from unexplained sources ignoring the submissions made by assessee.

5. On a careful consideration of the arguments submitted and relevant material referred to by learned Representatives, the facts and issue for adjudication can be fit in a narrow compass. We observe that the assessee made a total cash-deposit of Rs. 20,04,000/- during demonetization period in three Bank A/cs, viz. (i) Rs. 19,80,000/- in SBI, (ii) Rs. 14,000/- in Axis Bank, and (iii) Rs. 10,000/- in one more account with Axis Bank. When the Ld. AO asked the assessee about sources of these deposits, the assessee submitted that he had made a total cash-withdrawal of Rs. 19,75,000/- from his own Bank A/c with SBI; added a further sum of Rs. 29,000/- from past incomes/savings and thus made the cash-deposit of Rs. 20,04,000/-. The assessee submitted following details of cash-withdrawals of Rs. 19,75,000/- made from bank:

Date	Withdrawal from which Bank	Cheque No.	Rs.
22.08.2016	SBI	431846	6,50,000

23.08.2016	SBI	431847	4,00,000
24.08.2016	SBI	431850	2,00,000
31.08.2016	SBI	431851	7,25,000
Total			19,75,000

The assessee submitted copies of bank pass-book to prove these cash-withdrawals. However, Ld. AO also issued notice u/s 133(6) to the concerned Bank and obtained bank statement which too supported the assessee's version. Ld. AO/CIT(A), however, made two-fold observations, viz. (i) Impugned cheques by which aforesaid withdrawals had been made, were given to Shri Haseeb / Shri Haneef / Shri Balmukund as bearer cheques, which shows that the assessee made payments to those persons, and (ii) The withdrawals were made in the month of August, 2016 and cash-deposits were made during demonetization-period after a gap of about 3 months. Even if the contention of assessee is accepted that the cash-withdrawals were made by him, then also what was the need for keeping such huge cash at his residence for about 3 months. We observe that during assessment-proceeding, the assessee also filed Cash-Book for the period 15.08.2016 to 08.01.2017 which is repeatedly mentioned in (i) Point No. 8 of letter dated Nil, (ii) Point No. 5 of another letter dated Nil, and (iii) the only paragraph in letter dated 12.09.2018; all on the letter-heads of M/s Bhandari & Co., Advocates and Tax Consultants, counsel engaged by assessee in assessment-proceeding, copies of letters are placed at Page No. 6 to 10 of the Paper-Book. We also observe that the copy of the aforesaid Cash-Book is also placed at Page No. 19 to 25 of the Paper-Book, which shows debit-credit entries and daily cash balance available with the assessee. The entries also include the entries of cash-withdrawals, as detailed above, made by assessee from SBI as also the entries of cash-deposits made in the Banks. The Cash-Book shows sufficient cash balance available with the assessee for making cash-deposits in Bank and there is no negative balance. The assessee also filed P&L A/c, Capital A/c and Balance-Sheet as on

31.03.2017 to Ld. AO and copies of the same are also placed in the Paper-Book at Page No. 4 to 5. We also observe that during appellate-proceeding before Ld. CIT(A), the assessee also filed a Certificate dated 10.12.2019 issued by Chief Manager, SBI accompanied by xerox copies of the relevant cheques by which the impugned cash-withdrawals were made and copies thereof are also placed before us at Page No. 16 to 18 of the Paper-Book. On perusal of the Certificate dated 10.12.2019, we note that the certificate contains date-wise details of the withdrawals as also a categorical confirmation **“With reference to the captioned subject, we would like to inform you that below mentioned cheques are paid by branch to Account holder Shri Ajeet Talreja”**. From Xerox copies of cheques, we observe that the cheques are favouring “Self” and not to any person. Thus, these documentary evidences support the submission of assessee that cash-withdrawals were in fact made from the Bank A/c. We also note that the assessee has been consistently claiming before lower authorities that the cash was withdrawn through self-cheques and no payment to any person was involved. Furthermore, the documents placed by assessee in the Paper-Book, more particularly the Cash-Book which remains uncontroverted by revenue, clearly shows that the assessee was having sufficient cash for deposit in Bank. It is also observed the assessee had filed Balance-Sheet as on 31.03.2017 to Ld. AO which includes the Bank A/c in which cash was deposited and this Balance-Sheet remains accepted by revenue. We also take note that the revenue has not been able to bring any contrary material to establish that the assessee had made any investment or expenditure which is not mentioned in the Balance-Sheet for which the aforesaid cash-withdrawals were used leaving the assessee with no cash balance for making cash-deposits. It is also found that the time-gap of 3 months is not so high which prompts the authorities to derive conclusion against assessee. In fact, there are innumerable decisions where the Hon’ble Courts have accepted the time-gap in several months or years. We also observe that the assessee had been consistently claiming before lower authorities that the cheques used for making cash-withdrawals were favoring “self” and neither

those cheques were bearer-cheques nor made any payment to the persons mentioned in the assessment-order. The revenue is also not able to bring on record any evidence to rebut this submission of assessee. In such circumstances looking to all these aspects, we are persuaded to hold that the assessee was having sufficient funds, as explained by him and demonstrated by the Cash-Book filed before Ld. AO, which is not rebutted by revenue, and those funds were used for making cash-deposits. Thus, the assessee has explained the source of cash-deposits and the same must be accepted by revenue authorities. Accordingly, we delete the addition made by Ld. AO. The assessee succeeds in this appeal.

6. In the result, this appeal of assessee is allowed.

Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 14/10/2022.

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 14.10.2022

Patel/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	