

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

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.320/Ahd/2021  
Assessment Year: 2012-13**

Chaitanya M Gandhi,  
B/h. Gokulnathji Mandir,  
Kadakiya Wada,  
Modasa Post Office,  
Modasa,  
Sabarkantha – 383 315,  
[PAN – AOAPG 1106 P]  
(Appellant)

vs. Income Tax Officer,  
Ward - 1, Modasa.

(Respondent)

Assessee by : Shri S.N. Divatia, AR  
Respondent by : Shri Mukesh Sharma, Sr. DR

Date of hearing : 17.11.2022  
Date of pronouncement : 30.11.2022

**ORDER**

This appeal is filed by the Assessee against the order dated 29.07.2021 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal :-

- “1.1 *The order passed u/s.250 on 29.07.2021 by CIT(A) NFAC, Delhi for AY 2012-13 confirming the addition of Rs.10 lakh and dismissing the alternative ground is wholly illegal, unlawful and against the principles of natural justice.*
- 1.2 *The Ld. CIT(A) NFAC has grievously erred in law and or on facts in not considering fully and properly the submissions made and evidence produced by the appellant with regard to the impugned additions. Ld. CIT(A) NFAC ought to have passed a speaking and reasoned order.*
- 2.1 *The Ld. CIT(A) NFAC has grievously erred in law and on facts in confirming the addition of Rs.10 lakh and dismissing the alternative ground.*

- 2.2 *That in the facts and circumstances of the case as well as in law, the Ld. CIT(A), NFAC ought not to have upheld the addition of Rs.10 lakh and dismissing the alternative ground.*
- 3.1 *The Ld. CIT(A) NFAC has failed to appreciate that even the pay-in-slip in respect of cash deposited in bank were in the name of as well as signed by Mrs. Nayanaben Gandhi to the extent of Rs.3 lakhs.*
- 3.2 *Without prejudice to the above and in the alternative, the impugned addition made by AO and confirmed by The Ld. CIT(A) NFAC is highly excessive and calls for reduction.*

*It is, therefore, prayed that the additions upheld by the CIT(A) NFAC may kindly be deleted.”*

3. The assessee has not filed return of income for A.Y. 2012-13. As per the AIR information, the assessee deposited cash amounting to Rs.10,00,000/- in his Bank account of Modasa Nagarik Sahakari Bank during the F.Y. 2011-12. After recording reasons and obtaining due approval from appropriate authority, notice under Section 148 of the Income Tax Act, 1961 was issued on 27.03.2019 which was duly served to the assessee. In response to notice under Section 148 of the Act, the assessee filed return of income on 10.04.2019 declaring total income of Rs.1,08,540/-. The Assessing Officer made addition of Rs.10,00,000/- on account of unaccounted income credited to bank account under Section 69A of the Act i.e. unexplained cash deposits in Bank.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that the addition which was made by the Assessing Officer relates to the amount which was deposited in account of wife of the assessee and the same cannot be taxed in the hands of the assessee. The Ld. AR further submitted that the assessee had no account with Modasa Nagarik Sahakari Bank. Ld. AR further submitted that the observation of the Assessing Officer that the assessee failed to explain the source of cash deposit of Rs.10,00,000/- in savings account was not justifiable as the assessee has given the bank account details related to the wife of the assessee as the assessee is not having any account in the said Bank. Ld. AR

submitted that the person who has deposited cash in the said account is also a different person, so to consider the deposited amount as that of income of the assessee merely on the ground that he deposited the cash in the said bank account is not justifiable as the account does not belong to the assessee. The Ld. AR taken alternative ground thereby stating that 50% of the amount which has been taken into consideration as the account is that of the assessee.

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A). Ld. DR further submitted that the assessee has not taken additional ground but has taken alternate ground and, therefore, the CIT(A) was right in not deciding the case on merit. Ld. DR further submitted that the account belongs to the assessee as the same is not pointed out before any revenue authorities that the said account is in the name of the wife of the assessee.

7. Heard both the parties and perused all the relevant material available on record. At the time of hearing it was pointed out by the assessee that there is a delay of 67 days which was explained by the assessee in the application for condonation of delay and the reasons therein appears to be genuine and hence the delay is condoned. In the assessment order the Assessing Officer has taken cognisance of pay-in-slip of cash deposit which was signed by the assessee. But the assessee has not submitted any other details thereby stating that unaccounted income credited to bank account does not belong to the assessee. Even if assuming that the bank account is solely that of wife of the assessee, the same cannot be simplicitor accepted when the pay-in-slip has mentioned the assessee's name. Alternate argument made by the assessee that only 50% should be added appears to be applicable in the present case as the bank account is in the name of the assessee's wife and not in the name of the assessee but the pay-in-slip was signed by the assessee while operating the said bank account gives the indication that certain amount is that of the assessee. Therefore, ground no.3.1 is allowed.

8. As regards ground nos.1.1 & 1.2, the same are general and hence dismissed.

9. As regards ground nos.2.1 & 2.2, as we have accepted the contention in alternate ground no.3.1, the same are dismissed.

10. Ground no.3.2 is also dismissed.

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

Order pronounced in the open Court on this 30<sup>th</sup> day of November, 2022.

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 30<sup>th</sup> day of November, 2022**

**PBN/\***

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

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*