

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“F” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No. 1877/Mum/2022  
(A.Y.2017-18)**

|  |     |   |
|--|-----|---|
| Mehul Dilip Mehta<br>801, Vraj Nirmal, Rani<br>Sati Marg, Malad East,<br>Mumbai - 400097 | Vs. | ACIT, Circle 30(2)<br>Room No. 520, 5 <sup>th</sup> Floor,<br>Kautilya Bhavan, C-41,<br>to C-43, G Block,<br>Bandra Kurla Complex<br>Maharashtra - 400051 |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AJCPM4086D  |     |   |
| Appellant  | ..  | Respondent  |

|                 |                   |
|-----------------|-------------------|
| Appellant by :  | Manish Seth       |
| Respondent by : | Vranda U Matkarni |

|                       |            |
|-----------------------|------------|
| Date of Hearing       | 09.11.2022 |
| Date of Pronouncement | 23.11.2022 |

आदेश / O R D E R

**Per Amarjit Singh (AM):**

The present appeal filed by the assessee is directed against the order passed the NFAC, Delhi, dated 01.06.2022 for A.Y. 2017-18. The assessee has raised the following grounds before us:

*“1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-NFAC erred in confirming addition of Rs. 18,05,000/- (Rs 17.50,000/- cash deposited in Axis bank Ltd and Rs.55,000/- cash deposited in Karnataka Bank Ltd) as unexplained cash credit u/s 68 of the Income Tax Act, 1961.*

*a. On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-NFAC ought to have considered that the appellant has made cash deposit in bank as per below table and detailed cashflow statement was provided during scrutiny proceedings as well as during hearing before first appellate authority. During the both the proceedings, both the Id. Authorities has never asked for cash book, but in assessment order the Id. AO mentioned that since cash book is not provided. he is making additions, the Id. CIT(A) also reproduced the whole content of the assessment order as it is without making independent inquiry. The assessee did provide the bank statement of the current and previous year showing sufficient cash withdrawal from bank as well as details date wise cashflow statement to show that he has sufficient cash in hand at the end of the previous year as well as during the current financial year.*

| Sr. No. | Particulars  | Amount    |
|---------|--|-----------|
| 1       | Opening Balance 01.04.2016                               | 10,45,000 |
| 2       | Add: Withdrawn from banks during the year                | 10,64,000 |
| 3       | Add: Project Consultancy Fees received (Declared in ITR) | 600,000   |
| 4       | Less: Credit Card Payments                               | 600,300   |
| 5       | Less: Deposited in Bank                                  | 18,05,000 |
|         | Closing Balance 31.03.2017                               | 3,03,700  |

*2. On the facts and in the circumstances of the case and in law, the Ld CIT(A)-NFAC erred in confirming addition of Rs.6.10,314/- of consultancy fees received as unexplained cash credit u/s 68 of the Income Tax Act, 1961 even though the income of Rs. 6,10,314- was disclosed in the ITR filed by the appellant.*

*3. On the facts and in the circumstances of the case and in law, the Ld the Ld. CIT(A)-NFAC ought to consider that the assessee is not required to fill cash in hand amount in ITR as per law and hence not mentioned the same in ITR.*

*4. The assessee craves Your Honour's leave to add, alter or amend or delete any of the above grounds.”*

2. Fact in brief is that return of income declaring total income at Rs.26,96,450/- was filed on 24.11.2017. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 08.08.2018. During the course of assessment the A.O found that assessee has deposited a sum of Rs.17,95,914/- during the year under consideration and also made the payment of credit card in cash to the amount of Rs.6,10,300/-. On query the assessee explained that amount of Rs.6,00,000/- pertained to project consultancy fees received by him in cash from various parties. He further stated that remaining cash was

deposited in the accounts out of available cash in hand which was to the amount of Rs.10,45,000/- as per the cash book. The A.O has not agreed with the submission of the assessee stating that as per opening balance of cash book as on 01.04.2016 there was balance of Rs.10,45,000/-, however, the assessee has not shown the same as cash in hand in the return of income filed for assessment year 2016-17. Regarding receiving of consultancy fees of Rs.6,00,000/- in cash from various parties, the A.O stated that assessee has not filed any documentary evidences and confirmations from the parties in support of his claim, therefore, the A.O concluded that the cash deposited of Rs.17,95,914/- during the year under consideration and the payment of credit card in the cash to the amount of Rs.6,10,300/- were nothing but the unexplained cash credit, therefore, a sum of Rs.24,06,214/- [Rs.17,95,914/- (+) Rs.6,10,300/-] was added to the total income of the assessee as unexplained cash credit u/s 68 of the Act.

3. Aggrieved, the assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has partly allowed the appeal of the assessee. The relevant part of the decision of CIT(A) is as under:

*“5.3 I have considered the facts and circumstances of the case, submissions of the appellant and material available on record on the above matter. As per assessment order appellant has made cash deposits as under:*

| Sr. No. | Bank Account                                   | Amount of cash deposit |
|---------|--|------------------------|
| 1.      | Axis Bank Ltd. A/c<br>915010042422514          | 17,50,000              |
| 2.      | Karnataka Bank Ltd. A/c<br>No 0932500101628401 | 55,000                 |
| 3.      | Saraswat Bank A/c No.<br>33910010000314        | 40,414                 |
|         | <b>Total</b>                                   | <b>18,45,414</b>       |

*Appellant has claimed that the Saraswat A/c No. 33910010000314 pertain to M/s Walter Dorairaj hair and Beauty (PAN – AACFW2076J). Appellant has submitted copy of Bank account statement reflecting the account in the name of M/s Walter Dorairaj hair and Beauty. In view of the above A.O is directed to delete the addition of Rs.40,414/-.*

*6. On perusal of the assessment order it is seen that appellant has made cash deposits of Rs.18,05,000/- (Rs.17,50,000 + Rs.55,000). However, it appears that the A.O has by mistake calculated total at Rs.17,95,914/- (which include Rs.40,414 deposited in Saraswat Bank). In view of the above A.O may rectify the same on basis of material available on record.”*

4. Heard both the sides and perused the material on record. During the course of appellate proceedings before us the ld. Counsel filed paper book comprising bank wise summary of cash deposited and cash withdrawn, copies of bank statements, copies of Income tax return filed for assessment year 2017-18 and detail of credit card payment in cash etc. which was also filed before the A.O and ld. CIT(A) during the course of assessment and appellate proceedings. During the course of assessment the assessee has explained that opening balance as per cash book as on 01.04.2016 was Rs.10,45,000/-, however, the A.O has rejected the claim of the assessee simply stating that there was no cash in hand shown in the return of income for assessment year 2016-17. In this regard the ld. Counsel submitted that for seeing the cash in hand the A.O has to see the cash book which was neither called at the time of assessment proceedings by the A.O nor at the time of appellate proceedings by the CIT(A). Regarding claim of the assessee that he has withdrawn cash of Rs.10,64,000/- during the year from the bank the assessee has provided copies of bank statements of the current and previous years showing sufficient cash withdrawal from bank which has not been disproved by the A.O. However, it is observed that assessee could not substantiate the source of remaining cash deposited in the bank (Rs.18,05,000 – Rs.10,64,000) of Rs. 7,41,000/-. Therefore, we consider

that cash amount of Rs.7,41,000/- is not explained and we restrict the addition to the extent of Rs.7,41,000/-.

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

Order pronounced in the open court on 23.11.2022

Sd/-

(Amit Shukla)  
Judicial Member

Sd/-

(Amarjit Singh)  
Accountant Member

Place: Mumbai

Date 23.11.2022

Rohit: PS

**देश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

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

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.**