

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH 'DB', DEHRADUN**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Yogesh Kumar US, Judicial Member

ITA No. 131/DDN/2019 : Asstt. Year : 2014-15

Subhash Gupta, 46, Keshav Vihar, Majra, Dehradun-248171	Vs	DCIT, Central Circle, Dehradun-248001
(APPELLANT)		(RESPONDENT)
PAN No. ACEPG1378H		

Assessee by : Sh. H. S. Kushwaha, Adv.

Revenue by : Sh. N. S. Jangpangi, CIT DR

Date of Hearing: 12.12.2022

Date of Pronouncement: 05.01.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-IV, Kanpur dated 24.05.2019.

2. The only solitary ground raised by the assessee is as under:

"1. The learned AO made addition on account of so called unexplained cash of Rs. 20,45,000.00, which were found in the locker of the Appellant at the time of search conducted on 21.11.2013, treating the amount as un explained whereas the paper explaining the details of cash amount was also found in the locker with cash. The appellant has also explained the source of cash amount found in the locker in his statement on oath recorded at the time of search on appeal learned CIT appeal deleted the addition of Rs.16,00,000.00 and upheld the addition of Rs.4,45,000.00. Learned CIT appeal upheld the addition arbitrarily against the facts Appellant has stated at the time of search that the amount of Rs.4,45,000.00 is part of his professional receipts in

cash and the income of professional receipts of Rs. 5,54,070.00 has been reflected in the Income Tax return and details were also submitted . The addition is against the fact and law and amounts to double taxation also and is liable to be deleted.”

3. A search u/s 132 of the Income Tax Act, 1961 was initiated in the business premises of the assessee on 21.11.2013 in Graphic Era Society group of cases. The assessee is deriving income from salary, business or profession and other sources. During the course of assessment proceedings, the assessee has submitted revised computation of income. The assessee has shown undisclosed income to the tune of Rs.3,723/-.

4. During the search action u/s 132 of the Act, cash of Rs. 20,45,400/- was found & seized from the locker of the appellant. During the course of search in his statement on oath u/s 132(4) of the Act, the appellant explained the source of said cash in answer to the question no. 8 of the statement. The breakup of source of cash as per statement of appellant is as under:

- i. Rs. 3,99,000/- pertains to sagai ceremony
- ii. Rs. 1,58,000/- pertains to son & daughter-in-law
- iii. Rs. 1,08,400/- pertains to daughter
- iv. Rs. 1,35,000/- pertains to his wife as per slip found in the locker
- v. Rs. 8,00,000/- pertains to sale of old jewellery. Capital gains, on which have been disclosed in the return.

5. The revenue held that it is a settled proposition of law u/s 292C of the Act that seized documents, during search action are deemed to be correct and true unless otherwise proved with cogent evidences. Hence, as evident from the details available on the record that the appellant has explained the source of cash found during the course of search to the extent of Rs. 16,00,400/- was accepted as accounted.

6. However, in respect of remaining cash of Rs. 4,45,000/- the submission of appellant that the said cash is out of his current year's income is not supported with cogent documentary evidence. It was held by the revenue that the said cash of Rs. 4,45,000/- is unexplained income of the appellant for which, no explanation is with him. Thus, out of amount of Rs. 20,45,000/- found, Rs. 16,00,400/- was treated as explained and remaining amount of Rs. 4,45,000/- is hereby treated as unexplained.

7. During the arguments before us, it was submitted that the assessee had professional income of Rs.9,96,750/- and the amount of cash found of Rs. 4,45,000/- pertains to this receipt. At the same time, we find from the computation of income that out of Rs.9,96,750/-, the assessee has incurred expenses of Rs.4,42,680/- offering an amount of Rs.5,54,070/- to tax under the head "income from business & profession. Hence, an estimate of Rs.1,00,000/- may be conveniently held to be part of Rs.4,45,000/- found in the locker. Thus, out of the total amount of Rs. 20,45,000/- found Rs. 17,00,400/- be treated as explained.

8. In the result, the appeal of the assessee is partly allowed.
Order Pronounced in the Open Court on 05/01/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 05/01/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR