

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No. 1608/DEL/2022 [A.Y. 2013-14]
ITA No. 1609/DEL/2022 [A.Y. 2014-15]
ITA No. 1610/DEL/2022 [A.Y. 2018-19]
ITA No. 1611/DEL/2022 [A.Y. 2019-20]

Shri Shyam Sunder Lal
42/3, East Patel Nagar
New Delhi

Vs.

The A.C.I.T.
Central Circle -05
New Delhi

PAN: AABPL 2653 B

(Applicant)

(Respondent)

Assessee By : Shri Raj Kumar, CA
Shri J.P. Sharma, CA

Department By : Shri H.K. Choudhary, CIT-DR

Date of Hearing : 04.01.2023

Date of Pronouncement : 06.01.2023

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

The above captioned four appeals by the assessee are preferred against four separate orders of the ld. CIT(A) - 24, New Delhi dated 09.06.2022 pertaining to Assessment Years 2013-14, 2014-15, 2018-19 and 2019-20 respectively.

2. Since the underlying facts in the issues are common and the grievance of the assessee is identical in all the four appeals with different quantum, all these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. The common grievance in all the appeals relates to the addition on account of deposits found in the bank accounts of the assessee.

4. Facts emanating from the assessment order show that search and seizure action was carried out in Shri Kshitij Lal Group cases on 12.03.2019 and 13.03.2019. Search warrant was also executed in the name of the assessee, pursuant to which, statutory notices were issued and served upon the assessee, who filed return in response to the same.

5. During the course of scrutiny assessment proceedings, the Assessing Officer noticed cash deposits in the bank accounts of the assessee maintained in Dena Bank and State Bank of India. The following cash deposits were found in the respective Assessment Years:

<u>Assessment Year</u>	<u>Amount</u> [Rs.]
2013-14	7,04,250/-
2014-15	10,00,000/-
2018-19	9,00,000/-
2019-20	1,51,000/-

6. The assessee was asked to explain the source of cash deposits in the respective Assessment Years.

7. The assessee furnished reply alongwith bank statements and cash books from Assessment Years 2013-14 to 2019-20 and it was categorically explained that the impugned cash deposits are out of available sources.

8. The evidences and reply of the assessee were dismissed by the Assessing Officer who was of the firm belief that all the amounts deposited cannot be accepted as out of withdrawals and dismissing the contentions of the assessee, the additions were made in the respective Assessment Years for the impugned cash deposits as mentioned hereinabove.

9. Assessment order was challenged before the Id. CIT(A) but without any success.

10. Before us, the Id. counsel for the assessee once again drew our attention to the Fund Flow Statement explaining that on each date of cash deposit, there was adequate cash in hand with the assessee and, therefore, the source of cash has been duly explained.

11. Per contra, the Id. DR strongly supported the findings of the Assessing Officer and vehemently stated that there is no evidence for initial opening

cash in hand, which was subsequently used by the assessee for explaining the source of cash deposits.

12. We have given thoughtful consideration to the orders of the authorities below and have carefully considered the cash flow statement which is as under:

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2012	Opening	5,00,000	-	-	5,00,000	
03-04-2012	SBI	5,00,000	20,000		5,20,000	
09-04-2012	SBI	5,20,000	96,000		6,16,000	
19-04-2012	SBI	6,16,000	30,000		6,46,000	
31-05-2012	SBI	6,46,000		3,00,000	3,46,000	-
29-06-2012	SBI	3,46,000	20,000		3,66,000	
03-08-2012	SBI	3,66,000	22,000		3,88,000	
03-09-2012	SBI	3,88,000		2,00,000	1,88,000	-
03-09-2012	Dena bank	1,88,000		49,900	1,38,100	-
03-09-2012	SBI	1,38,100	20,000		1,58,100	-
04-09-2012	Dena bank	1,58,100		49,900	1,08,200	-
04-09-2012	SBI	1,08,200	20,000		1,28,200	-
05-09-2012	Dena bank	1,28,200		49,500	78,700	-
06-09-2012	Dena bank	78,700		49,900	28,800	-
07-09-2012	Dena bank	28,800		4,050	24,750	-
01-10-2012	SBI	24,750	75,000		99,750	-
04-10-2012	SBI	99,750	1,10,000		2,09,750	-
17-10-2012	SBI	2,09,750	8,66,000		10,75,750	-
22-10-2012	SBI	10,75,750	17,000		10,92,750	
05-11-2012	SBI	10,92,750	5,000		10,97,750	
12-11-2012	SBI	10,97,750	3,500		11,01,250	
19-11-2012	SBI	11,01,250	18,000		11,19,250	
10-12-2012	SBI	11,19,250	27,000		11,46,250	
11-12-2012	SBI	11,46,250	5,000		11,51,250	
04-01-2013	SBI	11,51,250	20,000		11,71,250	
11-01-2013	SBI	11,71,250		10,000	11,61,250	
04-02-2013	SBI	11,61,250	20,000		11,81,250	
			13,94,500	7,13,250		Nil

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2013		11,81,250	-		11,81,250	
14-09-2013	SBI	11,81,250	60,000		12,41,250	
18-02-2014	SBI	12,41,250		3,50,000	8,91,250	
25-02-2014	SBI	8,91,250		1,50,000	7,41,250	
13-03-2014	SBI	7,41,250		5,00,000	2,41,250	
	Total		60,000	10,00,000		Nil

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2014		2,41,250			2,41,250	
10-07-2014	SBI	2,41,250	1,00,000		3,41,250	
			1,00,000			Nil

A.Y 2016-17

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2015		3,41,250	-		3,41,250	
31-08-2015	SBI	3,41,250	50,000	-	3,91,250	
21-12-2015	SBI	3,91,250	12,000		4,03,250	
26-02-2016	SBI	4,03,250	30,000		4,33,250	
29-03-2016	SBI	4,33,250	30,000		4,63,250	
			1,22,000			Nil

A.Y 2017-18

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2016		4,63,250	-		4,63,250	
07-06-2016	SBI	4,63,250	30,000		4,93,250	
25-10-2016	SBI	4,93,250	15,000		5,08,250	
11-11-2016	SBI	5,08,250		2,30,000	2,78,250	
	Total		45,000	2,30,000		Nil

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2017		2,78,250	-		2,78,250	
30-05-2017	SBI	2,78,250	3,00,000		5,78,250	
04-08-2017	SBI	5,78,250		1,50,000	4,28,250	
11-08-2017	SBI	4,28,250	4,10,000		8,38,250	
23-11-2017	SBI	8,38,250	60,000		8,98,250	
15-03-2018	SBI	8,98,250		2,00,000	6,98,250	
16-03-2018	SBI	6,98,250		2,00,000	4,98,250	
19-03-2018	SBI	4,98,250		2,00,000	2,98,250	
20-03-2018	SBI	2,98,250		1,50,000	1,48,250	
	Total		7,70,000	9,00,000		Nil

Date	Bank Name	Opening Balance	Cash Withdrawal	Cash Deposit	Closing Balance	Peak Credit Amount
01-04-2017		1,48,250	-		1,48,250	
13-04-2018	SBI	1,48,250		1,00,000	48,250	
16-04-2018	SBI	48,250		45,000	3,250	
10-05-2018	SBI	3,250	20,000		23,250	
01-10-2018	SBI	23,250	6,000		29,250	
15-11-2018	SBI	29,250		6,000	23,250	
	Total		26,000	1,51,000		Nil

13. From the above, it can be seen that on each date of cash deposit, cash was available with the assessee. The Assessing Officer has not pointed out any defect in the aforementioned statements but has simply rubbished them saying that the availability of the cash cannot be accepted as the same must have been used for some other purposes.

14. We are of the considered view that unless some cogent material evidence is brought on record to show that there were some ceremonial functions in the residence of the assessee in the impugned Assessment Years

where the assessee could have used the cash, explanation of the assessee cannot be discarded or brushed aside lightly.

15. Similar view was taken by the Hon'ble Jurisdictional High Court of Delhi in the case of Kulwant Rai 291 ITR 36. The relevant findings of the Hon'ble High Court read as under:

“16. This cash flow statement furnished by the assessed was rejected by the Assessing Officer which is on the basis of suspicion that the assessed must have spent the amount for some other purposes. The orders of Assessing Officer as well as Commissioner of Income Tax are completely silent as to for what purpose the earlier withdrawals would have been spent. As per the cash book maintained by the assessed, a sum of Rs. 10,000/- was being spent for household expenses every month and the assessed has withdrawn from bank a sum of Rs. 2 lacs on 4th December, 2000 and there was no material with the Department that this money was not available with the assessed. It has been held by the Tribunal that in the instant case the withdrawals shown by the assessed are far in excess of the cash found during the course of search proceedings. No material has been relied upon by the Assessing Officer or Commissioner Income Tax(A) to support their view that the entire cash withdrawals must have been spent by the assessed and accordingly, the Tribunal rightly held that the assessment of Rs. 2.5 lacs is legally not sustainable under [Section 158BC](#) of the Act and the same was rightly ordered to be deleted.”

16. Considering the totality of facts in light of the decision of the Hon'ble High Court of Delhi [supra], we do not find any merit in the additions made by the Assessing Officer in the impugned Assessment Years. We, accordingly, direct the Assessing Officer to delete the additions from all the captioned Assessment Years.

17. The captioned appeals are, accordingly, allowed.

18. In the result, all the captioned four appeals of the assessee in ITA Nos. 1608 to 1611/DEL/2022 are allowed.

The order is pronounced in the open court on 06.01.2023.

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 06th January, 2023.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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