

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

(Conducted Through Virtual Court)

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SMT. MADHUMITA ROY, JUDICIAL MEMBER, JUDICIAL MEMBER**

**ITA No.169/RJT/2022
Assessment Year :2017-18**

| | | |
|---|-----|------------------------------|
| Sadhanaben Sanjaybhai Rajguru 1, Neels Bungalow Nr.Saurashtra University Neel City Club Rajkot 360 005. PAN : ABVPJ 4651Q | Vs. | ITO, Ward-1(1)(3) Rajkot. |
|---|-----|------------------------------|

| | | |
|-------------------------------|--|--------------------------------|
| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/(Respondent) |
|-------------------------------|--|--------------------------------|

| | |
|--------------|-------------------------|
| Assesseeby : | None |
| Revenue by : | Ms.Neha Nigam, Ld.SR.DR |

सुनवाई की तारीख/**Date of Hearing** : **13/02/2023**
घोषणा की तारीख /**Date of Pronouncement**: **15/02/2023**

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

Present appeal has been filed by the assessee against order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "the NFAC"] dated 14.3.2022 under section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Asst.Year 2017-18.

2. Sole issue relates to the addition made to income of the assessee on account of cash found deposited in bank account amounting to Rs.12.00 lakhs, which remained unexplained.

3. As transpires from orders of the authorities below, the assessee is running a beauty parlor and is a small entrepreneur. The basis with the authorities below for holding the cash deposits as unexplained is that the opening cash balance in the cash book was found to be very high and the cash book furnished by the assessee was found to be unreliable. The explanation therefore of the assessee that the cash book explained the source of cash deposit was rejected. The relevant findings of the AO in para-5 of his order are as under:

5. The reply of the assessee was duly considered but not found acceptable. In view of following facts :

(i) The assessee claimed that the cash in hand as reflected in his ITR filed for the A.Y. 2014-15 as on 31.03.2014 of Rs. 16,00,879/-. On verification of office record, it is noticed that the cash in hand reflected in her ITR for the A.Y. 2014-15 of Rs. 15,00,879/-. Further, the assessee has reflected cash in hand as on 31.03.2013 of meager amount of Rs. 2,72,246/-. Since, the case was not scrutinized for the A.Y. 2014-15. Therefore, large cash in hand as on 31.03.2014 as compared to previous year was not verified. Further, the assessee has not furnished any supporting documents to establish the genuineness of cash in hand as on 31.03.2014 of Rs. 15,00,879/-. Further, assessee has not filed the reason for keeping large cash in hand from last 2 years. Therefore, the same is considered as non-genuine.

(ii) As per cash book filed for the period 01.04.2014 to 31.03.2016, the assessee has not claimed any household expenses which is bound to be incurred for livelihood. Further, the assessee has shown various debit entries in cash book via contra entry from Axis Bank. However, on verification of Axis Bank statement of Axis Bank, it is noticed that the laid entries are for payment for purchase of product via online market point of sale. Therefore, the laid entries should not be debited to cash book as it is directly payment from bank account.

Further, as per Axis Bank statement, it is noticed that the assessee has deposited Rs. 13,000/- on 07.07.2016. However, the said entry is not reflected in cash book.

Looking to the above facts, the cash book filed by the assessee is full of discrepancies and mistakes and is not genuine. Therefore, the cash book filed by the assessee is rejected u/s. 145(3) of the I.T. Act, 1961 and an amount of Rs. 12,00,000/- being the cash deposits made in the Central Bank of India Account No. 1311113743 held by the assessee during the year is added back to total income of the assessee treating the same as unexplained money u/s. 69A of the I.T. Act, 1961.

4. As is evident from a bare perusal of the above the AO rejected the cash book of the assessee noting anomalies in the same to the effect that the opening balance of cash was found to be very high

compared to the income returned in the preceding years, and no withdrawal for household expenses were made and various debit entries were found to be made in the cash book, which were for the payment of purchases of products via online market point of sales.

5. We have noted from the Id.CIT(A)'s order that the assessee had explained each and every anomaly pointed out by the AO as above. The assessee had contended that for the past three years ending on 31.3.2014, 31.3.2015 and 31.3.2016, her cash in hand consistently was on the high side and the cash balances were disclosed in the return of income filed, being Rs.16.00 lakhs, Rs.11.81 lakhs and Rs.10.65 lakhs respectively; that the AO had taken small cash balance for the year ending 31.3.2013 i.e. four years before the impugned year. A.Y 2017-18, of Rs.2.72 lakhs, which was highly irrelevant. The assessee had also pointed out that the fact noted by the AO for not accepting the cash balance reflected in the return of income of the assessee for Asst.Year 2014-15 that the return was not scrutinized also made no difference, more particularly when the present proceedings related to Asst.Year 2017-18, and the assessee did reflect the cash balance in her ITR for Asst.Year 2014-15 at Rs.16 lakhs. The contention of the AO that the assessee had not established the cash on hand as on 31.3.2014 of Rs.16.00 lakhs with relevant documentary evidence, was also pointed out to be irrelevant since the issue for consideration pertained to Asst.Year 2017-18 and this question was never put to the assessee at all. As for contention of the AO that the assessee had not furnished any reason for keeping said huge cash, the same was pointed out to be irrelevant as long as the said cash balance was duly reflected in the return of income filed, and there was nothing on record with the AO to show that the balance had been spent/utilized by the assessee at

any point of time. The assessee also countered the contention of the AO regarding no household withdrawal pointing out that there was no requirement as such for making any withdrawal for household expenses since they were made by the rest of the family members comprising of husband and two grown-up children.

6. The Id.CIT(A), we have noted, has not considered the above contention of the assessee while upholding the order of the AO and has simply stated that the assessee was unable to reconcile the defects as pointed out by the AO in its books of accounts.

7. We have considered the explanation furnished by the assessee to the AO and we find that there is no case made out by the Revenue for treating the cash deposit of Rs.12 lakhs as unexplained in the light of the said explanation. The contention of the assessee, as emanating from the cash book itself, is that the cash deposits are sourced from the huge cash balance maintained by her. This huge cash balance for the past three years has been consistently reflected by the assessee in her return of income filed. This fact has remained uncontroverted. The Revenue has also not brought to light any subsequent utilization of this cash balance by the assessee. The assessee has also never been asked to justify its opening cash balance, therefore, this opening cash balance cannot now be doubted by the Revenue. As for no household withdrawals being made and other defects also, they all stand duly explained by the assessee as noted above and the Revenue has been unable to point any anomalies/infirmities in the same. There is no case therefore we hold for rejecting the cash book of the assessee as unreliable and the cash deposits of Rs.12 lacs therefore we hold stand duly explained from the entries in the cash book. Addition therefore made

of Rs.12.00 lakhs on account of cash deposited in the bank account of the assessee remaining unexplained, is therefore, not sustainable and is directed to be deleted.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 15th February, 2023 at Ahmedabad.

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad, dated 15/02/2023