

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.1735/Del/2022
[Assessment Year : 2017-18]**

Bijender Lather, 5/6, Railway Colony, Gohana, Haryana-131301. PAN-BCIPB3318M	vs	ITO, Ward-I, Sonipat.
APPELLANT		RESPONDENT
Appellant by	Shri Akshat Sharma, Adv.	
Respondent by	Shri Sanjay Nargas, Sr.DR	
Date of Hearing	15.02.2023	
Date of Pronouncement	23.02.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2017-18 is directed against the order of Ld. CIT(A), National Faceless Appeal Centre (“NFAC”), Delhi dated 30.05.2022.

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

1. *“The Learned Commissioner of Income Tax (Appeals) has erred in law and on facts in dismissing the ground of appeal No 1 where in the appellant contested against the assessment order under section 144 of the Act, which has been passed by the AO without satisfying the condition of providing reasonable opportunity to the assessee in order to explain the objections raised in the assessment order and without service of notice u/s 142(1) dated 14.03.2018 for initiation of assessment proceedings.*
2. *The Learned Commissioner of Income Tax (Appeals) has erred in law and on facts in confirming the addition of Rs.564500/- out of total cash deposit of Rs.1264500 during the period 09.11.2016 to 31.12.2016 year under consideration by superseding the reply and supportive documents submitted before him. Hence addition may kindly be deleted.*

3. *The Learned Commissioner of Income Tax (Appeals) has erred in law and on facts in confirming the arbitrary proceedings in regard to the cash deposit made by the assessee and assuming the same as his undisclosed and passed assessment order under section 144 whereas the joint family of appellant was having proper sources of cash deposit ill the bank account. It is prayed the addition of Rs.564500/- may kindly be deleted.”*

3. The only effective ground in this appeal is against the addition of Rs.5,64,500/-.

4. Facts giving rise to the present appeal are that the Assessing Officer (“AO”) was having information regarding cash deposited by the assessee in his bank account maintained with HDFC Bank Ltd. amounting to Rs.12,64,500/-. It was seen that the amount was deposited in old currency notes. The case of the assessee was picked up for scrutiny assessment and the assessment was framed u/s 144 of the Income Tax Act, 1961 (“the Act”) vide order dated 25.12.2019. Thereby, the AO made addition of Rs.5,64,500/- and Rs.2,00,595/- respectively, on account of salary and unexplained cash deposits.

5. Aggrieved against the order of AO, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.

6. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before the Tribunal.

7. At the time of hearing, Ld. Authorized Representative (“AR”) of the assessee has given a cash flow statement. For the sake of clarity, the same is hereby reproduced as under:-

Date	Particulars	Outgoing cash	Income cash	Cash in hands
01.04.2016	Opening cash in hand out of sale proceeds of agriculture products at RS.725261 Form J attached			180000
08.04.2016	Sale of wheat in cash Form J		242720	422720
11.04.2016	Sale of wheat in cash Form J		190740	613460
11.05.2016	Withdrawn from KCC in cash		026000	12.39460
01.06.2016	Agriculture expenses for the first quarter in cash	165000		1074460
01.06.2016	Household expenses in cash	50000		1024460
01.9.2016	Agriculture expenses for the second quarter	165000		859460
01.09.2016	Household expenses in cash	50000		809460
18.10.2016	Sale of Paddy in cash Form J		246501	1055961
19.10.2016	Sale of Paddy in cash Form J		130704	1186665
28.10.2016	Sale of Paddy in cash Form J		144226	1330891
05.11.2016	Sale of Paddy in cash form J		87329	1418220
15.11.2016	Deposits in KCC A/Cs.	800000		618220
24.11.2016	Deposits in KCC A/C.	450000		168220
01.12.2016	Agriculture expenses	125000		43220
07.02.2017	Withdrawn from KCC		100000	143220
17.02.2017	Withdrawn from KCC		100000	243220
23.02.2017	Withdrawn from KCC		100000	343220
27.02.2017	Withdrawn from KCC		100000	443220
01.03.2017	Agriculture expenses	125000		318220
01.03.2017	Household Expenses	50000		268220
18.03.2017	Withdrawn from KCC in cash		500000	768220
27.03.2017	Deposit in KCC A/c	49000		719220
28.03.2017	Deposit in KCC A/c	49000		670220

8. Ld. Counsel for the assessee submitted that the authorities below failed to consider the availability of fund in arbitrary manner and sustained the addition. He further reiterated the submissions as made in the written submissions.

9. On the other hand, Ld. Sr. DR opposed these submissions and submitted that the assessee failed to produce these evidences and could not explain the source of cash deposits.

10. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. The assessee has placed cash flow statement to buttress the contention that the assessee was having sufficient reason for earning and making deposits in cash.

10.1. A bare perusal of cash flow statement so submitted goes to prove that the assessee was having sufficient funds to make deposits. Therefore, considering the same, authorities below are not justified in making and sustaining the impugned addition. Hence, AO is hereby directed to delete the addition. The grounds raised by the assessee in this appeal are allowed.

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

Order pronounced in the open Court on 23rd February, 2023.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI