

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA NO. 2576/MUM/2022 : A.Y : 2013-14**

Income Tax Officer-28(1)(1),  
Mumbai. (Appellant)

Vs. M/s. IIFA  
Shop No. 3 to 8, Man Sarovar  
Building, Sector-17, Vashi,  
Navi Mumbai 400 703.  
**PAN : AACFI7760D** (Respondent)

**Appellant by : S/Shri Divyesh & Maitrik Doshi**

**Respondent by : Shri Dilip K. Shah**

**Date of Hearing : 05/01/2023**

**Date of Pronouncement : 22/02/2023**

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER :**

The Revenue has filed this appeal challenging the order dated 12.08.2022 passed by the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi (in short 'Ld. CIT(A)'), and it relates to Assessment Year 2013-14. The Revenue is aggrieved by the decision of Ld. CIT(A) in deleting the addition of Rs.2.6 crores relating to unexplained cash deposit made into the bank account.

2. The facts relating to the case are stated in brief. The assessee is engaged in the business of trading of gift articles and electronic and general items. The Assessing Officer received the information from another Income Tax Officer that the assessee has deposited a sum of Rs.2.36 crores by way of cash into its bank account. Accordingly, the Assessing Officer took the view that the income of the assessee has escaped the assessment and accordingly reopened the assessment by issuing notice under Section 148 of the Income Tax Act, 1961 (in short 'the Act'). The assessee submitted before the Assessing Officer the details that were called for by him. However, the Assessing Officer took the view that the deposit of Rs.2.36 crores made by the assessee in Abhyudaya Co-op. Bank Ltd. has not been properly explained and accordingly, assessed the same as income of the assessee under Section 69A of the Act.

3. In the appellate proceedings, the assessee submitted before Ld. CIT(A) that it carries on sales by way of credit card also and the credit card account is maintained with Axis Bank. It was submitted that the cash withdrawn from Axis Bank is deposited into Abhyudaya Co-op. Bank Ltd. It was further submitted that both cash withdrawals and deposits have been duly accounted for in the books of account and hence the deposit of Rs. 2.36 crores referred to by the Assessing Officer cannot be considered as 'unexplained money' of the assessee. The Ld. CIT(A) was convinced with the explanation given by the assessee and accordingly, deleted the addition. Aggrieved by the order passed by the Ld. CIT(A), the Revenue has filed this appeal before us.

4. We heard the parties and perused the record. We noticed that the assessee has stated that all the cash withdrawals made from Axis Bank were in turn deposited into Abhyudaya Co-op. Bank Ltd. It was further submitted that all the cash transactions including the deposit of Rs.2.36 crores made into Abhyudaya Co-op. Bank Ltd. has been duly accounted for in the books of account of the assessee. When the deposits made into the bank account is out of cash balance available in the books of account, the question of treating the same as 'unexplained' cash deposit does not arise. We also noticed that the assessee has furnished Cash Summary for the year relevant to Assessment Year 2013-14 as under in page 16 of the Paper Book :

<i>PARTICULARS</i>	<i>AMOUNT</i>	<i>AMOUNT</i>
<i>Opening Balance</i>		<i>166,811</i>
<i><u>Additions :-</u></i>		
<i>Withdrawal from Abhyudaya Bank</i>	<i>600,000</i>	
<i>Withdrawal from Axis Bank</i>	<i>20,816,200</i>	
<i>Counter Sales</i>	<i>15,253,339</i>	
<i>Rent Received</i>	<i>360,000</i>	<i>37,029,539</i>
<i><u>Deductions :-</u></i>		
<i>Deposits in Abhyudaya Bank</i>	<i>23,872,260</i>	
<i>Deposits in Abhyudaya Bank - Term Loan</i>	<i>2,800,000</i>	
<i>Deposits in Axis Bank</i>	<i>3,960,000</i>	
<i>Deposits in Cosmos Bank</i>	<i>4,356,000</i>	
<i>Expenses</i>	<i>1,488,766</i>	
<i>Withdrawal by Partner</i>	<i>300,000</i>	
<i>Creditors</i>	<i>334,622</i>	<i>37,111,648</i>
<i>Closing Balance</i>		<i>84,702</i>

5 A perusal of the above said Cash Summary would show that the deposits made into the Abhyudaya Co-op. Bank Ltd. was to the tune of Rs.2.38 crores which included the impugned amount of Rs.2.36 crores added by the Assessing Officer. Further, we noticed that the Ld. CIT(A) has examined the Cash Book, Axis Bank account and Abhyudaya Co-op. Bank Ltd. account and accordingly, he was convinced with the explanation given by the assessee. For the sake of convenience, we extract below the observations made by the Ld. CIT(A) in this regard :-

*“5.1 The cash book, Axis Bank account and Abhyudaya Bank account have been gone through. It is clear that the cash deposited in Abhyudaya bank on various dates is duly reflected in the cash book and the cash withdrawn from the Axis bank is also shown in the cash book. The books of the appellant have been audited. The AO in the assessment order has not pointed out the reason why the explanation of the appellant was not found to be valid. The AO has erroneously concluded that the cash deposited in the bank account is not explained in the return of income and the annexures thereto. The AO ought to have examined the cash books and correlated with the cash sales ledger and withdrawals from the Axis Bank. There appears to be total confusion in the mind of the AO for relying on case laws relating to tax evasion and tax planning in confirming the addition without bringing on record any material indicating that the appellant had used colourable devices to reduce his income. Considering the submissions of the appellant and verification of documents furnished, it is clear that the such huge addition should not have been made at all by the AO. Therefore the addition made by the AO is deleted.”*

6. Accordingly, on a conspectus of the matter, we are of the view that deposit of Rs.2.36 crores made into Abhyudaya Co-op. Bank Ltd. account has been made out of cash balances available with the assessee in its books of account and hence there is no question of treating the same as ‘unexplained money’ in the hands of

the assessee. Accordingly, we do not find any infirmity in the decision rendered by the Ld. CIT(A) and accordingly, we uphold the same.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 22<sup>nd</sup> February, 2023.

Sd/-  
(RAHUL CHAUDHARY)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai, Date : 22<sup>nd</sup> February, 2023

\*SSL\*

Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "C" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai