

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 719/DEL/2020
[Assessment Year: 2011-12]

Rohit Kumar Chhabra, H. No. 369, Sector-14, NIT Faridabad-121005 PAN- AGXPC1601J	<u>Vs</u>	Income-tax Officer, Ward-2(2), Faridabad.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	23.02.2023	
Date of pronouncement	27.02.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), Faridabad, dated 28.11.2019, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

“1. The Assessee denies its liability to be assessed at total income Rs. 1650240/-/ as against the returned income of Rs. 150,240/- on account of cash deposit U/s 68 and accordingly denies its liability to pay tax and interest demanded thereon.

2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. AO in making addition of Rs. 1650240/- on account of cash deposit U/s 68.*

3. *In any view of the matter and in any case the order under appeal is bad in law and against the facts and circumstances of the case.*

4. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other."*

2. At the time of hearing no one attended the proceedings. It is seen from the records that no one has been attending the proceedings despite various opportunities were given. Therefore, the appeal is taken up for hearing in the absence of the assessee and is being decided ex parte to the assessee on the basis of material available on record.

3. Apropos to ground nos. 1 & 2, learned DR supported the orders of the authorities below and relied upon the finding therein.

4. The facts giving rise to the present appeal are that the case of the assessee was reopened on the basis of AIR information and the assessment u/s 143(3) read with Section 147 of the Income-tax Act, 1961, hereinafter referred to as the "Act"

was framed vide order dated 16.11.2018. Thereby the Assessing Officer made addition in respect of cash deposits amounting to Rs. 15 lakh and assessed income at Rs. 16,50,240/-. Aggrieved against this, the assessee preferred appeal before the learned CIT(Appeals), who also confirmed the addition. Aggrieved against this the assessee is in appeal before this Tribunal.

5. I find that the learned CIT(Appeals) has given finding of fact by observing as under:

“14. The facts of the case and material available on record and assessment record have been gone through. It is noted that the appellant had made cash deposits on three dates in his bank account (Rs.4,50,000/- on 03.05.2010, Rs.7,00,000/- on 24.08.2010 and Rs.3,50,000/- on 09.09.2010). The AO during the assessment proceedings, vide notice u/s 142(1) dated 26.10.2018 has required the appellant to explain source of cash deposits of Rs. 15,97,000/- in his bank account. It was explained before the AO vide letter dated 09.10.2018/ 29.10.2018/12.11.2018 that he was engaged in the business of trading of medical / surgical instruments with turnover of Rs.19,60,700/-. The sales were made in cash which were deposited in the bank account. In the said submission, the appellant furnished cash invoices from Sr. No. 1 to Sr. No. 62 reflecting total cash sales of Rs. 19,17,800/- out of which cash deposit of Rs.15,97,000/- were made in the bank account on various dates. No such explanation was furnished regarding receipt of cash through gifts during the assessment proceedings. The submission that cash deposits in the bank account were out of cash sale proceeds of medical equipments was made on different occasions on, 09.10.2018/29.10.2018 and 12.11.2018. Therefore, it cannot be said that the appellant failed by mistake to mention about receipt of cash through gifts during the year under consideration in the course of assessment proceedings. Accordingly it is found that such submission made during the appellate proceedings was in the nature of an afterthought. The same is hereby rejected. It is further noted

that the appellant has shown gifts of Rs. 4,45,000/- in cash from Sh. Prem Prakash Chhabra, his father, , whereas *Sh. Prem Parkash Chhabra* has withdrawn cash of Rs.4,69,775/- **from his bank** account during the year on various dates. After meeting *his house hold expenses, it is beyond human probability that Sh. Prem Parkash Chhabra was having surplus cash of Rs.4,45,000/- to make such gift to the appellant. It is also beyond logic to appreciate that Sh. Prem Parkash Chhabra has been withdrawing cash in small-small amounts from his bank account on various dates and was able to accumulate such cash withdrawals with him. It is also beyond logic to appreciate that Sh. Prem Parkash Chhabra was not able to spend the cash withdrawn then what was the justification for making subsequent withdrawals if earlier withdrawals were not spent. The whole explanation in this regard has been found contradictory and against preponderance of probability. The appellant had made cash deposits of Rs. 15,97,000/- in his bank account whereas he had withdrawn just Rs.40,000/- in cash from the said bank account. The entire cash deposits in the bank account have been largely used to pay the loan liability from ICICI Bank. It is not clear from which source the appellant could pay against the purchases made of medical instructions and revenue expenses incurred for the alleged business activities. Nothing has been brought on record to show the existence of such business activities and the whole claim has been found without any corroborating details. The appellant had made cash deposits on 15,97,000/- Just three dates (mentioned as above). Such isolated cash deposits on ttvree dates during the year do not justify the claim of appellant that the same «« made out of the business receipts.*

15. *Merely because the appellant has shown income of Rs.1,58,421/- in the return of income under the head business would not establish the genuineness of such business activities. The onus was upon the appellant to substantiate the particulars of income reflected in the ITR. The appellant has failed to do so. Even in the Form No. 35, in the statement of facts/grounds of appeal, the appellant has not stated any such fact regarding receipt of cash gifts. Even not a single purchase bill has been furnished to substantiate the genuineness of business activities. By considering the overall facts of the case, it is noted that the appellant has failed to explain source and nature of cash deposits in his bank account during the year. The explanation so furnished has been found unsatisfactory. In the circumstances it is held that the AO was justified to treat the same as unexplained income of the appellant. Accordingly the addition of Rs.*

15,00,000/- is hereby confirmed u/s 69A of the Act. Ground Nos. 1 to 5 of the appellant are Dismissed.”

6. The above finding of the learned CIT(Appeals) is not rebutted by the assessee. Therefore, I do not see any reason to interfere in the findings of the lower authorities. Same is hereby affirmed. Grounds taken by the assessee are dismissed.

7. Appeal of the assessee is dismissed.

Order pronounced in open court on 27th February, 2023.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**