

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “B” DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A No.3571/DEL/2019
Assessment Year 2015-16

Sorav Gupta, E-45, Sector-51, Noida.	v.	Deputy Commissioner of Income Tax, Central Circle-II, 2 nd Floor, ARTO Complex, Noida.
TAN/PAN: AFPPG6356P		
(Appellant)		(Respondent)

Appellant by:	Shri Mukul Gupta, CA		
Respondent by:	Shri T. James Singson, CIT-DR		
Date of hearing:	01	03	2022
Date of pronouncement:	07	03	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-IV, Kanpur (‘CIT(A)’ in short) dated 29.01.2019 arising from the assessment order dated 31.12.2016 passed by the Assessing Officer under Section 153A r.w. Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. In the present appeal, the assessee seeks to challenge the addition of Rs.3,23,500/- on account of unexplained cash found in the course of the search.

3. Briefly stated, a search and seizure operation was conducted on 11.11.2014 at the premises of Tirupati-Sun World Group of

Companies (TSGC) including the assessee. The cash of Rs.3,23,500/- was found from the residential premises of the assessee out of which Rs.2,50,000/- was also seized by the investigation team. In the course of the assessment framed under Section 153A r.w. Section 143(3) of the Act, an addition of Rs.3,23,500/- was *inter alia* made to the total income of the assessee.

4. The assessee preferred appeal before the CIT(A) against the aforesaid action of the Assessing Officer. The CIT(A) however adjudicated the issue adverse to assessee without giving any findings on the issue.

5. Aggrieved further, the assessee is in appeal before the Tribunal.

6. We have heard the rival submissions on the issue of alleged unexplained cash in the custody of the assessee. In the matter, we take note of the plea raised on behalf of the assessee, namely;

(i) the cash book of the assessee submitted before the CIT(A) discloses withdrawal of Rs.4,50,000/- on 04.03.2014 from the bank account of the assessee. The assessee also holds opening cash balance as on 04.04.2014 at Rs.4,13,041/-. The cash book of the assessee eventually reflects a cash balance of Rs.3,23,500/- on the date of search.

(ii) the assessee is filing tax return for more than last twenty years and has paid huge taxes on substantial income declared as tabulated herein:

<i>A.Y.</i>	<i>Income</i>	<i>Tax Paid</i>
2013-14	1,74,23,770	52,08,845
2014-15	4,36,41,660	1,46,41,190
2015-16	4,36,01,060	1,46,21,726
2016-17	4,31,40,110	1,47,28,049

7. In the light of the profile of the assessee read with cash book, we find merit in the plea of the assessee. An average holding of cash of Rs.3,23,500/- is quite normal when tested on the doctrine of preponderance to probabilities for a person showing substantial income of Rs.4 crore and above year after year. Coupled with this, the cash book of the assessee supports the source of cash by way of withdrawals from the banks and earlier year balances. The CIT(A) inexplicably has not rendered any finding whatsoever while deciding against the assessee. In such circumstances, we are of the opinion that the primary onus which lay upon the assessee stood discharged and such onus could not be shifted back to the assessee. The action of the CIT(A) is thus set aside and the stand of the assessee is restored. The Assessing Officer is directed to delete the additions on this score.

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

Order pronounced in the open Court on 07/03/2023.

Sd/-

[CHANDRA MOHAN GARG]
JUDICIAL MEMBER

DATED: /03/2023

Prabhat

Sd/-

[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER