

**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.1636/DEL/2020
Assessment Year 2011-12

Girdari Lal Sec-80 Barcoli Faridabad Haryana.	Vs.	The Income Tax Officer Ward-1(3) Faridabad
TAN/PAN: AFRPL7291N		
(Appellant)		(Respondent)

Appellant by:	Shri Jitender Wadhwa, CA		
Respondent by:	Shri Sanjay Kumar Yadav, Sr.DR		
Date of hearing:	09	05	2023
Date of pronouncement:	23	05	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals), Faridabad ('CIT(A)' in short) dated 17.03.2020 arising from the assessment order dated 02.08.2017 passed by the Assessing Officer (AO) under Section 147 r.w.s 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. As per the captioned appeal, the assessee has challenged the additions of Rs.27,85,000/- on account of cash deposits in the bank.

3. Briefly stated, the assessee an individual is 92 years old and claimed to have earned income from agriculture and farm business

in all his life time and continues to earn in this manner. During the assessment year, the assessee deposited cash of Rs.27,85,000/- in his bank account in question. The cash deposited is claimed to be out of cash in hand whose basic source is sale proceeds from agricultural land sold in Financial Year 2005-06 for an amount of Rs.2,20,36,875/- out of which Rs.2,19,36,875/- had been received by cheque in the bank and remaining Rs.1 lakh was received in cash about the time of sale. The Assessing Officer based on the cash deposit in his savings bank account invoked the provisions of Section 148 r.w. Section 147 of the Act and made the addition of the aforesaid amount holding the source of cash deposited during the year, has not been proved.

4. Aggrieved by the aforesaid additions, the assessee preferred appeal before the CIT(A) without any relief.

5. Further aggrieved, the assessee preferred appeal before the Tribunal.

6. When the matter was called for hearing, the ld. counsel for the assessee submitted that the assessee is a very old person aged 92 years and has earned income from agricultural activities. In the present case, the assessee has sold agricultural land parcel in F.Y. 2005-06 and used to withdraw and deposit the funds from time to time in his savings bank account on demand by his kith and kin for temporary uses. Besides, the cash were withdrawn out of necessity for his own needs and healthcare as the assessee is wholly dependent on his family at this age. Adverting to source, the ld. counsel submitted that the year-wise cash summary showing the withdrawals and deposits of cash after the sale of agricultural land in F.Y. 2005-06 has been placed for perusal. The

Id. counsel also placed details of fixed deposits made from time to time over past several years, out of sale proceeds of the agricultural land. A final summary of the utilization of funds were also furnished in this regard to justify the source of cash deposits. It was pointed out that on a combined reading of such tabular statements placed in the paper book, it can be seen that the cash deposits of Rs.27,85,000/- in question is directly linked to the sale proceeds of the agricultural land. The assessee, at this old age, has no other source of income and is basically surviving on the aforesaid sale proceed/money is being withdrawal and deposited having regard to the family requirements and healthcare. In the Financial Year 2010-11 relevant to Assessment Year 2011-12 in question also, the assessee has withdrawn Rs.35,75,000/- whereas the cash deposit is only Rs.27,85,000/-. At the beginning of the Financial Year, the assessee is having cash in hand of Rs.28,09,603/-. Against the cheque of Rs.1,98,38,375/- deposited in Bank Account on 09.03.2006 being sale proceeds of land parcel, a cash summary statement after such deposit is referred to in this regard reproduced hereunder:

Period	Income (Rs.)	Cash withdrawn (Rs.)	Cash Deposit (Rs.)	Cash Utilisation (Rs.)	Balance (Rs.)
F.Y. 2005-06	0.00	30,00,000/-	0.00	0.00	3000000
F.Y. 2006-07	0.00	13470000	1300000	10883359	4286641
F.Y. 2007-08	0.00	54050000	2550000	150000	6991641
F.Y. 2008-09	0.00	717000	3209000	150000	4349641
F.Y. 2009-10	2,84,962/-	175000	1750000	250000	2809603
F.Y. 2010-11	2,00,000/-	3575000	2785000	150000	3649603
Total	4,84,962/-	26342000	11594000	11583359	

7. The Id. counsel thus submitted that there was no warrant to doubt the veracity of the source of cash deposit in the hands of the

assessee in the peculiar circumstances. The Id. counsel thus submitted that the Revenue was not justified in making such additions despite the consistent stand of the assessee in this regard since beginning and in total disregard to the humble background of the assessee merely for the reason that the agricultural land was sold long back.

8. The Id. DR for the Revenue, on the other hand, referred to and relied upon the first appellate order and the assessment order and submitted that the burden which lay upon the assessee to discharge his onus towards source of cash deposit has not been satisfactorily discharged.

9. We have carefully considered the rival submissions and perused the material placed before us with the assistance of the respective sides.

10. On perusal of the case record in entirety, we find that the assessee has sufficiently demonstrated the factual matrix and the circumstances for holding the cash and depositing the cash in the assessment year under question. When holistically seen in the backdrop that the assessee is an agriculturist has sold a parcel of land and withdrawn cash, shown partial utilization thereof towards purchase of property in the name of kith and kin and fixed deposits etc. over a period of time, we tend to concur with the explanation offered in this regard.

11. It is not uncommon in the Indian Society to withdraw cash and hold a part of it as a measure of an abundant caution on safety. Such approach is more prevalent in rural society to which the assessee belongs to. Having regard to the conventional constructs and postulations which define Indian socio-eco

structure, the explanation of the assessee is not quite hard to perceive. Coupled with this, fact that the assessee has given proper summary of year-wise act of withdrawal, deposit and utilization of cash and cash withdrawal of Rs.35.75 lakh in the assessment year itself, the onus placed upon the assessee to explain the source of cash deposit, to our mind, has been satisfactorily discharged. Needless to say, the onus of proof varies from case to case and the law does not require the assessee to discharge the onus to the hilt in every case. We find merit in the explanation offered by the assessee. The order of the CIT(A) is thus set aside and the impugned action of the Assessing Officer is reversed.

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

Order pronounced in the open Court on 23/05/2023

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /05/2023
prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**