

IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "F" NEW DELHI ]

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं .I.T.A No. 1607/Del/2022  
निर्धारण वर्ष/Assessment Year: 2018-19

Preksha Lal, C/o. M/s. Raj Kumar & Associates, L-7A (LFG) South Extension, Part-2, New Delhi - 110 049.	<u>बनाम</u> Vs.	ACIT, Central Circle : 5, New Delhi.
PAN No. AEFPL8369C		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे / Assessee by :	Shri Raj Kumar Gupta, C.A. & Shri J. P. Sharma, C. A.;
राजस्वकीओरसे / Department by :	Shri T. Kipgen, [CIT] - D. R.;

सुनवाईकीतारीख/ Date of hearing :	17.04.2023
उद्घोषणाकीतारीख/ Pronouncement on :	30.05.2023

आदेश / O R D E R

PER C. N. PRASAD, J. M.

1. This appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals)-24 [hereinafter

referred to CIT (Appeals)] New Delhi, dated 23.06.2022 for assessment year 2018-19 in sustaining the addition made under section 69A of the Income Tax Act, 1961 (the Act) in respect of cash deposits in the bank account of the assessee.

2. Briefly stated the facts are that a search and seizure operation under section 132 of the Act was carried out on Shri Kshitij Lal Group cases on 12.03.2019 and 13.03.2019. The assessee was also covered under the said search. Pursuant to search notice under section 153A of the Act was issued on 30.01.2020 and in response to the said notice return of income was filed on 27.01.2020 declaring income of Rs.3,47,030/- as was declared in the return filed originally by the assessee on 11.08.2019 under section 139(1) of the Act. On the basis of evidences collected during the search operation it was found that assessee deposited an amount of Rs.9,90,000/- on 21.12.2017 in her bank account maintained was Punjab & Sind Bank, Hajratganj, Lucknow. The assessee was required to show cause as to why the cash deposit should not be treated as un-explained income of the assessee and also in the absence of sources of cash deposit found in the course of search. The assessee furnished her reply stating that she is an accomplished painter since childhood filed her returns of income from assessment year 2015-16 onwards declaring income from painting sales. The assessee submitted that for the assessment years 2016-17 and 2017-18 she has received income from sale of paintings in cash and declared income of Rs.9,32,560/- and Rs.9,123,900/- respectively. The assessee also submitted that during the assessment year under consideration i.e. 2018-19 the assessee declared income from sale

of painting which was made in cash at Rs.1,81,794/-. Therefore, the assessee submitted that the cash deposit in bank account of Rs.9,90,000/- is out of accumulated income from cash sale of paintings. Therefore, the assessee submitted that sufficient cash was available as on 29.12.2017 out of which Rs.9,90,000/- was deposited in bank account and the sources of total cash deposit is fully explained.

3. However, the Assessing Officer did not accept the submission of the assessee. The Assessing Officer observed that the assessee has not furnished any evidence, bills/vouchers for cash sales made. The Assessing Officer also disbelieved that the total amount of cash sales made during the assessment years 2016-17 and 2017-18 were kept accumulated and was deposited during assessment year 2018-19 into bank account without incurring any expenditure. Therefore, in the absence of any supporting documents the submission of the assessee was not accepted. Further the Assessing Officer observed that the assessee has shown income of Rs.3,57,026/- from other sources in the return of income filed for the assessment year under consideration and, therefore, credit for the declared income was allowed and the balance amount of cash deposit of Rs.6,32,974/- was treated as unexplained income under section 69A of the Act.

4. On appeal the Id. CIT (Appeals) sustained the addition made by the Assessing Officer.

5. Before us the Id. Counsel for the assessee reiterated the submissions made before the authorities below.

6. On the other hand, the Id. DR submits that the Assessing Officer as well as the Id. CIT (Appeals) observed that there is no evidence on record to suggest that the assessee has made cash sales. The assessee has not adduced any evidence of sale of paintings in cash. Therefore, in the absence of any evidence furnished by the assessee the Assessing Officer has rightly treated the cash deposit made by the assessee as unexplained income under section 69A of the Act which was rightly sustained by the Id. CIT (Appeals).

7. Heard the parties and perused the orders of the authorities below. Assessee deposited cash of Rs.9,90,000/- during the year under consideration and it was explained that she has cash balance on account of sale of paintings during the assessment years 2016-17 and 2017-18 to the extent of Rs.9,32,560/- and Rs.9,13,900/- respectively and out of which Rs.9,90,000/- was deposited into bank account. The source of the income was explained that it is the cash sales of paintings made by the assessee. The assessee could not produce any evidence of sale of paintings before the Assessing Officer as well as before the Id. CIT (Appeals). The Assessing Officer, however, since the assessee has declared income from other sources at Rs.3,47,030/- the balance of Rs.6,32,974/- was treated as unexplained income under section 69A of the Act, which was sustained by the Id. CIT (Appeals) observing as under:-

“4. I have considered the material on record including written submission of the AR of the appellant filed in course of appellate proceedings. I have also perused penalty order u/s 153A of the Act passed by the Assessing Officer. In the present appeal the appellant has raised eight grounds of appeal.

4.1.1 In Ground No. 1, the appellant has contended that the Asstt. framed U/s 153A at an income of Rs.9,80,004/- against returned at Rs.3,47,030/thereby making an addition .of Rs.6,32,974/-, is unsustainable in law as well as on merits.

4.1.2 It is a general ground of appeal and no specific arguments have been advanced. Hence Ground No. 1 is dismissed.

4.2.1 In Ground No. 2, the appellant has contended that the impugned asstt. has been framed without affording reasonable opportunity of hearing, thus it is violative of principles of natural justice.

4.2.2 Ground No. 2 is not pressed by the appellant, hence the same is not being adjudicated.

4.3.1 In Ground No. 3, the appellant has contended that the impugned asstt. is unsustainable in law for not taking the approval u/s. 153D as per law.

4.3.2 Ground No. 3 is not pressed by the appellant, hence the same is not being adjudicated.

4.4.1 In Ground No. 4, the appellant has contended that the A.O. erred in law and on merits in making addition of Rs.6,32,974/- u/s. 69A for cash deposit in Bank

4.4.2 During assessment year 2018-19 the appellant had deposited cash of Rs.9,90,000/- on 21.12.2017 in bank account. The Assessing Officer had made an addition of Rs.6,32,974/as unexplained money u/s 69A of Income Tax Act. The appellant had argued that the cash deposited in bank is out of accumulated income from cash sales of paintings. Further the appellant contended that she was married during the year and she also received cash gifts by way of shagun from various relatives and friends. This cash receipts was also available with her and was deposited in the bank.

4.4.3 I have gone through the submissions made by the appellant and have carefully considered the issues involved. The arguments extended by the appellant that the cash deposited in the bank is out of the accumulated income of two earlier years does not seem to be acceptable. There is no justification for accumulating cash sales over the years and depositing it on a particular date in bank after a gap of upto two years. Further, as pointed out by the Assessing Officer that the assessee did not furnish any evidence of such cash sales. It is extremely improbable that all the sales over the years were made in cash only and the same cash was only accumulated and was not spent anywhere. Similarly, the cash gifts received during marriage are not supported by any evidence and normally such gifts are usually utilized against the expenditure done during the marriage. Further, the Assessing Officer has already allowed a credit of Rs.3,57,026/- out of the cash deposited as the income from other sources in her return of income for the subject assessment year. In my considered opinion and in the absence of any supporting documents regarding the cash income gifts received during the year the only credit that can at best be allowed to the assessee against the cash deposited is the cash sales prior to date of deposition during the year and some minimal portion of cash sales during the last quarter of earlier assessment year 2017-18. Thus it can safely be interpreted that the credit already allowed by the Assessing Officer would include the cash sales prior to date of deposition during the year and some small portion of cash sales during the last quarter of earlier assessment year 2017-18. Although the criterion followed by the Assessing Officer is slightly different but the amount of credit allowed by the Assessing Officer against the cash deposited is largely correct. In view of the above I am of the considered opinion that there is no need to interfere with the order of the Assessing Officer and accordingly, Ground No. 4 of the appeal is dismissed.”

8. On careful consideration of the observations of the Id. CIT (Appeals) we do not see any valid reasons to reverse the findings of the Id. CIT (Appeals) in sustaining the addition, especially when the

findings of the Assessing Officer and Id. CIT (Appeals) was not rebutted with evidences before us. Thus, we sustain the order of the Id. CIT (Appeals) and reject the ground of the assessee.

9. In the result appeal of the assessee is dismissed.

Order pronounced in the open court on : 30/05/2023.

Sd/-  
( SHAMIM YAHYA )  
ACCOUNTANT MEMBER

Sd/-  
( C. N. PRASAD )  
JUDICIAL MEMBER

Dated : 30/05/2023.

*\*MEHTA\**

Copy forwarded to :-

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

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	24.05.2023
Date on which the typed draft is placed before the dictating member	25.05.2023
Date on which the typed draft is placed before the other member	30.05.2023
Date on which the approved draft comes to the Sr. PS/ PS	30.05.2023
Date on which the fair order is placed before the dictating member for pronouncement	30.05.2023

Date on which the fair order comes back to the Sr. PS/ PS	30.05.2023
Date on which the final order is uploaded on the website	<del>30.05.2023</del>
Date on which the file goes to the Bench Clerk	30.05.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	