

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT  
(Conducted through E-Court at Ahmedabad)**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.261/Rjt/2019  
(Assessment Year: 2011-12)

Manjit Jitendrabhai Kothari 41, Prabhat Complex -3, Shroff Road, Rajkot, Gujarat-360001	Vs.	ITO Ward-2(1)(2), Rajkot
[PAN No.AYWPK7251K]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Vimal Desai, A.R.
<b>Respondent by:</b>	Shri B. D. Gupta, Sr. DR

<b>Date of Hearing</b>	01.06.2023
<b>Date of Pronouncement</b>	09.06.2023

ORDER

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax(Appeals)-2, (in short "CIT(A)"), Rajkot in Appeal No. CIT(A)-2/Rjt/10556/2018-19 vide order dated 02.08.2019 passed for Assessment Year 2011-12.

2. The assessee has taken the following grounds of appeals:-

*"1. The Learned AO has erred in making addition of Rs.4039800/- as Unexplained Investment.*

*2. The Learned AO has erred in making Arbitrary and unjust addition of Rs. 632500/- being cash deposit In Bank Account as unexplained money."*

3. The brief facts of the case are that during the course of assessment, the Ld. Assessing Officer observed that from the details of bank accounts of the assessee held with the bank of Baroda, there was a cash deposit of ₹ 6,32,500/- during the impugned year under consideration. Since the assessee failed to give any explanation regarding the same (the assessing officer had issued several notices to the assessee, which remained uncomplied with), the AO proceeded to pass ex parte assessment order under section 144 of the Act by treating the aforesaid cash deposit of ₹ 6,32,500/- as unexplained money under section 69A of the Act.

4. In appeal, the counsel for the assessee submitted that the source of the aforesaid deposit was partly out of withdrawals amounting to ₹ 2,94,000/- on 14-03-2011 and the balance source of investment was out of cash withdrawal made by the assessee amounting to ₹ 4,80,000/- on 31-01-2008. The aforesaid amount was kept at home for medical emergency fund for his senior citizen father was facing cardiac problems. The assessee also filed certificate of SAL Hospital that his father was admitted in the aforesaid hospital on 23-01-2011 for cardiac bypass surgery. However, Ld. CIT(Appeals) partly allowed the appeal of the assessee and accepted the contention of the assessee that part of deposit was made out of a withdrawal of ₹ 2,94,000/- on 14-03-2011 and rejected the contention of the assessee that the balance deposits in the bank account was made out of cash withdrawal of ₹ 4,80,000/- in January 2008. Accordingly, Ld. CIT(Appeals) upheld the addition to the tune of rupees ₹ 4,80,000/- in the hands of the assessee. While passing the appellate order, Ld. CIT(Appeals) made the following observations:

*“Having considered facts and circumstances of the case I find merit in contentions of Assessing Officer that gap of 3 years between cash*

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*withdrawals and the stated deposit is quite extraordinary. The contentions of assessee that amount were kept at home for emergency is not tenable in light of the circumstantial factors. I find that the father of assessee had been admitted for cardiac surgery on 21/08/2011 and the amount had been withdrawn 31/01/2008 and thus the withdrawals of amount had no, immediate nexus with the medical problem. Secondly had this amount been withdrawn for medical problem of father, it would have been used for the treatment of father in January 11. It is not shown by assessee how much out of these funds was used for treatment, what was the total cost of treatment of father and what was source of the same. The cash deposit on 16/03/2011 and 17/03/2011 after treatment of father is contrary to assessee's contentions that amount was kept for emergency. Had the amount had been kept for emergency for 3 years, the same would not have been deposited back in March 11, when father was going under treatment. The amount should have been kept at home and not deposited in bank by the assessee by his own very logic. This contentions of assessee are therefore not tenable. Accepting the contentions of assessee that part deposit were made out of withdrawals of Rs.2,94,000/- on 14/03/2011 and rejecting the contentions that he had cash in hand of Rs.4,80,000/- on 01/03/2011, addition of Rs.4,80,000/- is confirmed and balance addition is directed to be deleted. The ground of appeal 2 is partly allowed.*

8. *For statistical purpose, the appeal of the assessee is to be treated as **partly allowed.***"

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(Appeals), confirming the addition of ₹ 4,80,000/- in the hands of the

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assessee. Before us, the counsel for the assessee submitted that the assessee is a non-resident Indian and is residing in Uganda. However, the parents of the assessee are residing in India. The parents of the assessee are senior citizens and are not keeping good health. In the month of March 2011, there was a cash withdrawal of ₹ 2,94,000/- from the assessee's bank account on 14-03-2011, which is immediately prior to the date of deposit of cash amounting to ₹ 6,32,500/-. Accordingly, the source of cash deposit to the extent of ₹ 2,94,000/- is out of cash withdrawal made from his bank account on 14-03-2011. This argument of the assessee was accepted by Ld. CIT(Appeals) in the appellate proceedings. Further, the counsel for the assessee submitted that the assessee had withdrawn a sum of ₹ 4,80,000/- on 31-01-2008 from his bank account maintained with the Bank of Baroda. The assessee had kept the aforesaid amount of ₹ 4,80,000/- at his house in India as emergency fund which may be required for meeting any medical exigencies of his senior citizen parents who were residing alone in India. In the month of January 2011, the mother of the assessee was operated. Therefore, part of the medical expenses were met out of the withdrawals from the fund of ₹ 4,80,000/- , which was kept with the parents for medical exigencies. After meeting the medical expenses, the balance amount of ₹ 3,38,500/-was deposited back in the bank account of the assessee during the impugned year under consideration. Therefore, the counsel for the assessee submitted that the source of deposits has been duly explained in the instant facts, and therefore, looking into the instant facts, Ld. CIT(Appeals) has erred in facts and law in confirming addition to the extent of ₹ 4,80,000/-.

6. In response, the Ld. DR placed reliance on the observations made Ld. CIT(Appeals) in the appellate order.

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7. We have heard the rival contentions and perused the material on record. In our considered view, looking into the instant facts, the assessee has been able to convincingly explain the source of cash deposits amounting to ₹6,32,500/- made during the year under consideration as being cash withdrawals from his bank account on 30-01-2008 (₹4,80,000/-) and 14-03-2011 (₹2,94,000/-), which was deposited after meeting the medical expenses of his parents. Accordingly, the additions confirmed by Ld. CIT(Appeals) are directed to be deleted.

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

**This Order pronounced in Open Court on 09/06/2023**

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**  
Ahmedabad; Dated 09/06/2023

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

*TANMAY, Sr. PS* **TRUE COPY**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट / DR, ITAT, Rajkot
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot