

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.36/Asr/2023
Assessment Year: 2017-18**

Sh. Vijay Kumar House No. 221, Kenworld Tour & Travels, Pacci Daki, Jammu, Jammu &Kahsmir. [PAN:-AOZPK0906L] (Appellant)	Vs.	ITO, Ward-2(2), Jammu. (Respondent)
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Appellant by	Sh. Sudhir Sehgal, Adv.
Respondent by	Sh. Nakul Aggarwal, Sr. DR

Date of Hearing	06.06.2023
Date of Pronouncement	15.06.2023

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income Tax (Appeals), NFAC, Delhi,[in brevity the ‘CIT (A)’],

order passed u/s 250 of the Income Tax Act 1961, [in brevity 'the Act'] for A.Y. 2017-18. The impugned order was emanated from the order of the Id. Income Tax Officer, Ward-2(2), Jammu, [in brevity 'the AO'] order passed u/s 144 of the Act.

2. The assessee has taken the following grounds:

“1. That the Ld. CIT(A), National Faceless Appeal Centre, Delhi has erred in confirming the addition of Rs. 6,66,000/- U/S 69A of the Income Tax. Act.

2. That the Ld. CIT(A), NFAC, has failed to appreciate the fact that the assessee has declared income from Travels Agency being run by him and he has failed to consider that the cash in hand of Rs. 6,66,000/- was as per books of accounts of Travels Agency business of the assessee.

3. That the Ld. CIT(A) has failed to consider the fact that the TDS have been deducted in respect of the commission amount received by him as per this regular activity of the assessee.

4. That the Appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.”

3. Brief fact of the case is that the assessee is a travel agent during impugned assessment year. The assessee deposited cash in Punjab National Bank, Nehru Market Jammu, amount to Rs.10,91,200/- in bank a/c no. 3386002100018 and Rs. 41500/- in bank a/c no. 3962000100201446. The cash deposited during demonetisation amount to Rs.7,28,500/- which was taken in cognizance by the Id. AO related to deposit of cash in 4 days after the date of demonetisation. The Id. AO considered the cash in hand of the assessee which was duly reduced from the deposit of cash during computation of addition and finally ascertained the amount of Rs.6,66,200/- as unaccounted cash as unexplained income u/s 69A of the Act and added back with the total income of the assessee. Aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the order of the Id. AO. Being aggrieved the assessee filed the appeal before us.

4. The Id. Counsel for the assessee filed a written submission which are kept in the record. The Id. AR first draw our attention in the appeal order page 6 relevant para is extracted as below:

“The Ld. Assessing Officer has specifically pointed out the four entries valuing to Rs.7,28,500/- on account of deposits made on 10.11.2016, 11.11.2016, 11.11.2016 and 12.11.2016 but has totally ignored the fact that on 11.11.2016, the assessee has transferred through NEFT an amount of Rs.1,83,500/- to Flight Raj A Travels Pvt. Ltd. Vide cheque No.125314. Another amount of Rs.50,000/- was transferred to Manu Super Shopeee on 18.11.2016 vide cheque No. 125317. Again on 18.11.2016 an amount of Rs. 1,00,000/- was transferred through NEFT to Flight Raj A Travels Pvt. Ltd vide cheque No.125318 and again on 23.11.2016 an amount of Rs. 2,50,000/- was transferred through NEFT to Flight Raj A Travels Pvt. Vide cheque No. 125322. These facts are fully incorporated in the same bank account on the basis of which the cash deposit made has been taken into account but the Ld. Assessing Officer has intentionally ignored these facts. These facts clearly show that Ld. Assessing Officer has not taken into account all the facts which were available with her as she has

neither taken into account the return of income which was duly available with her but adopted the figures of income in irrational way and similarly she had accounted for only the cash deposited into bank account but at the same time ignored the corresponding payments made as on the basis of these figures she would have appreciated the explanation put forth by the assessee.”

5. The assessee is a travel agent who is engaged in facilitating the persons for booking the air tickets/tour packages. Following the modus operandi of business, the assessee earned some nominal commission income and service charges which was earned from various travel agent. The TDS has been duly deducted and is reflecting in Form 26AS, enclosed **APB page 7**. The ld. AR invited our attention in **APB page nos. 4 to 6** related to Profit & Loss a/c, computation and the ITR of the assessee. The assessee received service charges of Rs.5,74,360/- and commission of Rs.2,58,766/- during impugned assessment year. The ld. AR placed that as per the appeal order the assessee received the money and paid to different travelling agencies who are entitled to serve the package for traveling and tour. The assessee

already declared the total income of Rs.2,33,090/- in the impugned assessment year. So, the entire addition u/s 69A r.w.s. 115BBE is arbitrary. The entire amount was deposited related to payment to different concerns. The assessee has not taken any benefit from this deposited cash.

5.1 The ld. AR further argued that the ld. AO unfortunately avoided the NEFT payment and cheque payment to different travel agencies during computation of income for addition in assessment order.

6. The ld. DR vehemently argued and fully relied on the order of the revenue authorities.

7. We heard the rival submission and considered the documents available in the record. From the order of the ld. CIT(A), and in the documents, it is clear that the assessee utilized this sum for payment to the parties related to business. The ld. AR mentioned that the revenue failed to appreciate the direct nexus of the amount deposited and the amount immediately thereof utilized by transferring to travel agencies, which proves that the amount was not related to the assessee. But it was during the course of business on which the assessee earned commission or service

charges of the said income which was duly declared in the return of income. So, the entire amount was added had no basis from the point of addition. We find that the observation of the revenue is erroneous. Accordingly, the addition amount of Rs.6,66,200/- is quashed.

8. In the result, the appeal of the assessee bearing **ITA No. 36/Asr/2023** is allowed.

Order pronounced in the open court on 15.06.2023

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order