

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "F", MUMBAI

Before Shri B R Baskaran, Hon'ble Accountant Member,  
& Shri Rahul Chaudhary, Hon'ble Judicial Member

ITA No.1010/Mum/2023  
(Assessment Year: 2019-20)

Jitendra Navnitlal Mehta, 602, Joy Elegance, 5 <sup>th</sup> Road, Juhu Scheme, Mumbai 400 056  PAN AACPM2700M  (Appellant)	Vs.	ACIT Central Circle 3(1), Mumbai    (Respondent)
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Appellant By : Shri Rshmikant Modi & Ms. Ketki Rajshirke  
Respondent By : Ms Naina Krishnakumar, Sr AR

Date of Hearing : 27.06.2023	Date of Pronouncement : 28.06.2023
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**ORDER**

**Per B R Baskaran, Accountant Member:**

The assessee has filed this appeal challenging the order dated 09-02-2023 passed by Ld CIT(A)-51, Mumbai and it relates to the assessment year 2019-20. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition of Rs.14,66,022/- made by the AO u/s 69A of the Act relating to unexplained cash.

2. The facts relating to the case are stated in brief. The assessee is the proprietor of a business concern named M/s Metco Resources, which is engaged in the business of trading in chemicals. The assessee was subjected to survey operation u/s 133A of the Act on 24.10.2018. The

physical cash balance available on that date was Rs.21,95,000/-, while the book balance available with the assessee's business concern, assessee's and his wife's personal books was Rs.7,28,978/-. Based on this information, the AO took the view that there was unexplained cash available with the assessee to the tune of Rs.14,66,022/- and assessed the same as income of the assessee u/s 69A of the Act. The Ld CIT(A) also confirmed the above said addition.

3. The main contention of the Ld A.R was that the assessee has withdrawn a sum of Rs.11.00 lakhs from his bank account from April, 2018 to the date of survey. Similarly, his wife has withdrawn a sum of Rs.3.50 lakhs from the bank account during the above said period. Hence aggregate amount of withdrawals made was Rs.14.50 lakhs. He submitted that the above said amounts were kept in the business premises and hence there was excess physical cash balance. Accordingly, he prayed that the entire addition should be deleted.

4. On the contrary, the Ld D.R submitted that the assessee and his wife has maintained personal books of account and the withdrawals made from the bank accounts have been shown as drawings by them, meaning thereby, the said withdrawals have been spent away. Accordingly, the Ld D.R submitted that the above said cash balance will not be available with the assessee and accordingly, the above said explanation of the assessee should be rejected.

5. In the rejoinder, the Ld A.R submitted the assessee has duly accounted for personal expenses also in his books of account. In this regard, he invited our attention to page no.14 of the paper book, wherein the details of drawings made by the assessee has been summarised. Accordingly, he submitted that the withdrawals made from the bank accounts were available with the assessee.

6. We heard rival contentions and perused the record. We notice that the assessee and his wife has withdrawn a sum of Rs.14.50 lakhs from their bank accounts and the entire amount was shown as withdrawn by them in the books of account. Further, the drawings made by him are also stated to have been duly accounted for in regular books of accounts. Accordingly, it was submitted that the entire amount of Rs.14.50 lakhs was available with him at the time of survey. However, on a perusal of the details of drawings given in page 14 of the paper book, we notice that the assessee has drawn a sum of Rs.16,439/- only during the period from 1.4.2018 to 31.3.2019 for day to day expenses. Admittedly, the above said amount may not be sufficient to meet day to day expenses, meaning thereby, the assessee should have spent some portion of the amount out of the aggregate amount of withdrawal of Rs.14.50 lakhs, i.e., it cannot be said that the entire amount of Rs.14.50 lakhs was available with the assessee. At the same time, it cannot be said that all the amounts might have been spent by the assessee also for the reason that the assessee has been showing all other personal expenses as drawings in the books of account and no other material was found during the course of survey in support of the above said presumption. Accordingly, we are of the view that the amount that should be available with the assessee out of the above said withdrawal may be estimated in order to put this issue at rest. Accordingly, on a conspectus of the matter, we are of the view that it can be held that the assessee has spent a sum of Rs.4.50 lakhs out of the withdrawals made from the bank accounts and accordingly, a sum of Rs.10.00 lakhs can be considered to be available with the assessee and the said amount can be given credit against the addition made.

7. Accordingly, we modify the order passed by the Ld CIT(A) and hold that the assessee has explained physical cash balance for a further sum of

Rs.10.00 lakhs. In that view of the matter, the addition should be sustained to the extent of Rs.4,66,022/-. We direct the AO accordingly.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on this day of 28<sup>th</sup> June, 2023.

**Sd/-**

**(Rahul Chaudhary)**  
**JUDICIAL MEMBER**

**Sd/-**

**(B R Baskaran)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated : 28<sup>th</sup> June, 2023  
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**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. The DR, 'F' Bench, ITAT, Mumbai

BY ORDER

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(Assistant Registrar)  
Income Tax Appellate Tribunal, Mumbai