

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 430/Ind/2022
Assessment Year: 2015-16

Smt. Shahida Begum, 10, Rameshwar Nagar, Khandwa (Assessee / Appellant)	<u>बनाम/</u> Vs.	Income-tax Officer-1, Khandwa (Revenue / Respondent)
PAN: BIKPB8099R		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	10.07.2023	
Date of Pronouncement	11.07.2023	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 26.10.2022 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)"], which in turn arises out of assessment-order dated 30.09.2019 passed by learned ITO, Ward-1, Khandwa u/s 147 read with Section 143 of the Income-tax Act, 1961, for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal on grounds as mentioned in appeal memo.

2. When the case was called, none appeared on behalf of the assessee. On perusal of case records, it is observed that this appeal was filed on 26.12.22 and thereafter listed for hearing on 06.03.23, 18.04.23 and then adjourned to 09.05.23. Thereafter, on 09.05.23, further adjournment was granted at the request of

assessee till 07.06.23, but again on 07.06.23 nobody appeared on assessee's side. The case was once again adjourned to 10.07.23. Today when the case was called, none appeared on behalf of assessee. The case was passed over and again taken up but still no appearance. However, the Ld. DR for the Revenue was available and ready to argue the case. Therefore, it is thought fit not to grant any further adjournment and decide the appeal based on material available in the record and after hearing the Ld. DR.

3. Brief facts relating to case are such that the assessee is a lady- individual claiming aged about 70 years. The AO received an information from AIR that the assessee deposited a total sum of Rs. 11,50,000/- in a bank account during the previous year 2014-15 relevant to AY 2015-16 and based on such information, the AO issued notice u/s 148 on 20.09.2018 in response to which the assessee filed her return of income declaring a small income of Rs. 34,620/- on 14.05.2019. During assessment proceedings, when the AO called explanation from assessee regarding source of bank deposits, the assessee submitted Bank statement alongwith the Cash flow chart and also made explanations but the AO was not satisfied for sources of deposits of Rs. 10,00,000/- out of the total sum of Rs. 11,50,000/-. Ultimately, while completing assessment, the AO treated the deposit of Rs. 10,00,000/- as unexplained and made addition u/s 69A. Aggrieved, the assessee filed first appeal but could not succeed. Now the assessee has come in this appeal before us.

4. The only controversy involved in present appeal relates to the addition of Rs. 10,00,000/- made by AO u/s 69A on account of deposits in Bank account.

5. On perusal of assessment order and with the able assistance of Ld. DR, it emerges that the break-up and details of impugned cash-deposit of Rs. 10,00,000/- are: Deposit of Rs. 5,00,000/- on 10.09.2014 (+) Rs. Deposit of Rs. 5,00,000/- on 12.01.2015. As far as the sources of these deposits are concerned, the assessee made submissions twice to AO, firstly on 14.05.2019 and secondly on 17.09.2019 as under:

- (i) In her 1st submission, for the deposit of Rs. 5,00,000/- on 10.09.2014, the assessee explained that she gave a cheque of Rs. 50,000/- on 22.05.2014 to her son Shri Shadab and cheque of Rs. 2,50,000/- on 28.05.2014 (+) cheque of Rs. 2,00,000/- on 04.09.2014 to another son Shri Afaque drawn on the same Bank A/c. Subsequently, both sons returned money in cash on 10.09.2014 which was re-deposited in Bank A/c. Regarding deposit of Rs. 5,00,000/- on 12.01.2015, the assessee explained that she withdrew Rs. 1,00,000/- on 07.10.2014 and Rs. 4,00,000/- on 01.10.2014 which remained unutilized and re-deposited in Bank A/c.
- (ii) Subsequently in her 2nd submission, the assessee made same submissions but with a small variation for the deposit of Rs. 5,00,000/- on 10.09.2014. The assessee submitted that she issued bearer cheque of Rs. 50,000/- on 22.05.2014 in favour of her son Shri Shadab and cheques of Rs. 2,50,000/- on 28.05.2014 (+) Rs. 2,00,000/- on 04.09.2014 in favour of son Shri Afaque to withdraw cash. Subsequently, the cash so withdrawn was re-deposited in Bank A/c. Ld. AO found contradiction in two submissions of assessee, precisely that in 1st submission the assessee's explanation was that she gave cheques to her sons who returned moneys subsequently; but in 2nd submission her explanation was that the moneys were got withdrawn by issuing bearer cheques in favour of sons.

6. As to the purpose of keeping moneys during the intervening period of 3-4 months in-between withdrawal and re-deposit, the assessee submitted that she intended to purchase a plot but the deal could not have been done. However, Ld. AO was not convinced with this submission for twin-reasons, namely (i) the assessee could not submit any supporting document for entering into purchase of plot and (ii) the assessee is a middle-class person who cannot be expected to keep moneys at home for about 3-4 months.

7. On perusal of order of CIT(A), we find that the CIT(A) has simply agreed with the observations made by AO and upheld the addition. The assessee also submitted

to CIT(A) that she was an old lady and the submissions were made to the best of memory. But the assessee's explanation did not impress the CIT(A) who emphasized the finding of AO.

8. During hearing before us, Ld. DR for the revenue supported the orders of lower-authorities and prayed to uphold the addition.

9. We have heard the Ld. DR and also gone through the orders of lower-authorities carefully. After our mindful consideration, we find certain material facts culled out from assessment-order to be noted. Firstly, the assessee is a lady and running in old age. Secondly, the assessee belongs to a middle class family. Thirdly, the assessee has submitted bank-statement to demonstrate that moneys were withdrawn from bank A/c and re-deposited within a gap of 3-4 months. All these facts are not doubted, disputed or rebutted by revenue; in fact these facts are very much accepted. Still the authorities have rejected the assessee's explanation as to the source of deposits. The first reason advanced by authorities is the small variation in submission made by assessee. While in first submission the assessee explained that the cheques were given to sons who returned moneys at a later stage, in second submission the assessee explained that bearer cheques were given in favour of sons for withdrawal of moneys. This difference in modus operandi explained by assessee has led the AO to conclude against assessee. In our considered view, there is no substantial variation in the submission of assessee to take a heightened or hyper technical view leading to a hefty addition in the hands of assessee. We believe that the authorities should take a practical difficulty of a lady assessee of older age in making submissions to authorities when she has made submissions to the best of

memory. Further, the fact remains that she has withdrawn moneys with the help of her sons, who are part of family of assessee, through bearer cheques. It is not the case of revenue that the cheques were a/c payee or they were given to any person other than those sons. When the factum of withdrawals through bearer cheques handed over to sons is not disputed or rebutted, whether the money was immediately given back to assessee or at a later date would not make any difference as far as explainable source of re-deposit is concerned. Moreover, if at all there was any little doubt in the matter, the AO could very well confront sons of assessee but even that was not done. The second reason advanced by authorities that the assessee has not given any documentary evidence in support of purchase transaction of plot for keeping moneys. This also, in our view, is not a cogent reason because the assessee is not claiming that she made a purchase deal which was later cancelled; she submitted that she was intending to purchase a plot which could not be done. When the purchase could not have been done, there cannot be any documentary evidence to demonstrate purchase transaction. Another reasoning advanced by AO that there was a time-gap of 3-4 months in withdrawal and re-deposit, we find that the said time-gap is not so high to reject the assessee's explanation of keeping moneys at home or with sons. There are judicial rulings where a time-gap of more than one year has also been accepted. Lastly, we also find that the AO has himself accepted that the assessee is a person of middle class family and the assessee is an old lady. The revenue has also not brought on record any source of income available with assessee. Then in such a situation, the assessee cannot have any source to generate an income of Rs. 10,00,000/- for making

deposit in bank. At the cost of repetition, we may mention that the assessee has explained previous withdrawals from bank a/c for re-deposit in bank a/c and the previous withdrawals are not doubted by authorities. Thus, looking to all circumstances, we are not in a position to subscribe to the view taken by revenue-authorities. We hold that the assessee has explained the source of cash-deposits which must be accepted. We are, therefore, inclined to delete the addition made by authorities. The assessee succeeds in this appeal.

10. Resultantly, this appeal of assessee is allowed.

Order pronounced in the open court on 11.07.2023.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 11.07.2023

CPU/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore*

