

THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: SMC: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER AND

ITA No. 42/Del/2023  
Assessment Year: 2020-21

Pargat Singh, 1868/14, 3 <sup>rd</sup> Floor, Govind Puri Extension, New Delhi C/o M/s Raj Kumar & Associates, L-7A (LGF), South Extension Part-II, New Delhi 110049 PAN <b>FYYP S 9789 H</b>	vs.	ACIT, Central Circle-05, New Delhi
(Appellant)		(Respondent)

For Assessee :	Shri Raj Kumar Gupta, CA
For Revenue :	Shri Sumesh Swani, Sr. DR

Date of Hearing :	05.04.2023
Date of Pronouncement :	30.06.2023

**ORDER**

**Per Chandra Mohan Garg:-**

This appeal filed by the assessee is directed against the order dated 23.12.2022 of the Ld. CIT(A)-24, New Delhi, relating to Assessment Year 2020-21.

2. The grounds have been raised by the assessee are as follows:

1. *That, the approval granted u/s. 153D by Addl. CIT, since not in accordance with law, which makes the impugned asst. order illegal and unsustainable in law.*

2. *That under the facts and circumstances both the lower authorities erred in law and on merits in making addition u/s. 69A of Rs. 3,80,000/- for cash physically found at the residence of the assessee during search u/s. 132 out of total cash found Rs. 4,31,000/- which stood fully explained during search as well as during asst. being 2,60,000/- belonging to father and balance out of income in savings etc. of family of assessee including his wife.*

2.1 *That without prejudice, in the absence of SCN prior to making addition of Rs. 3,80,000/- the addition is unjustified and unsustainable, also for the reason that no opportunity of hearing provided before making said addition as well as assessee was never put to notice for the said proposed addition.*

3. The Id. AR submitted that the assessee does not want to press ground no. 1 hence the same is dismissed as not pressed. Apropos remaining grounds no. 2 & 2.1 the Id. AR submitted that under the facts and circumstances both the lower authorities erred in law and on merits in making addition u/s. 69A of Rs. 3,80,000/- for cash physically found at the residence of the assessee during search u/s. 132 out of total cash found Rs. 4,31,000/- which stood fully explained during search as well as during asst. being 2,60,000/- belonging to father and balance out of income in savings etc. of family of assessee including his wife. He further contended that in the absence of SCN prior to making addition of Rs. 3,80,000/- the addition is unjustified and unsustainable, also for the reason that no opportunity of hearing provided before making said addition as well as assessee was never put to notice for the said proposed addition. The Id. AR submitted that the addition may kindly be deleted.

4. Replying to the above, the Id. Senior DR supported the orders of the authorities below and contended that since the source of cash deposit of Rs. 3,80,000/- remained unexplained therefore the Assessing Officer was right and justified in making addition u/s. 69A of the Act which may kindly be upheld.

5. On careful consideration of above submissions, I note that the Assessing Officer in para 3 noted the submissions of assessee that cash of Rs. 4,31,000/- found during the course of search was mainly out of business receipts, cash withdrawals from the bank out of business receipts deposited in the bank and out of savings of his wife kept at home.

6. From the first appellate order, I further note that the Id. CIT(A) noted the factual submissions of assessee and thereafter noted that in the statements the assessee mentioned that cash of Rs. 2,60,000/- belong to his father who received this money from committee but he declined to accept said submissions by holding that no supporting evidence was provided. The CIT(A) further noted that during the course of assessment proceedings it was submitted that the cash found during the search was mainly out of business receipts, cash withdrawals from bank and out of savings of appellants wife kept at home out of various receipts received by her from various relatives and friends on the festive occasions. In the present case the Assessing Officer has made addition of Rs. 3,80,000/- and the father of assessee Shri Swarn Singh has filed an affidavit supporting the explanation given by the assessee during statements u/s. 132(4) of the Act replying to question no. 29 categorically stated that Rs. 2,60,000 belong to his father who received the same from committees. It is a normal conduct and practice of small business and self employed persons to have membership of various committees to utilise their savings and to create a platform for procuring money

in case of need. Therefore I am unable to agree with the contention of the Id. CIT(A) that there is no supporting evidence regarding factum of receipt of Rs. 2,60,000/- from committees by the father of assessee.

7. Regarding second limb of explanation towards remaining amount of Rs. 1,20,000/- I, am of the view that the money was seized from the premise of assessee where the assessee was living with his family which includes father, wife and children etc. in such a situation the small amount of Rs. 1,20,000/- cannot be held as unexplained dismissing the explanation of assessee that the money was out of business receipts from the cash withdrawals from the bank and out of savings of appellants wife kept at home out of various receipts received by her from various friends and relatives on festive occasions. This explanation has been dismissed by the authorities below without any sustainable reason and only by holding that no argument has been placed and before Assessing Officer and before Id. CIT(A) the assessee placed contradictory explanation. In my consider view both the explanation are sustainable which clarify the source of total impugned amount of Rs. 3,80,000/- therefore the conclusion drawn by the authorities below is dismissed and ground no. 2 & 2.1 of assessee is allowed and the Assessing Officer is directed to delete the entire addition.

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

Order pronounced in the open court on 30.06.2023.

Sd/-  
(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Dated: 30<sup>th</sup> June, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

// By Order //

Asstt. Registrar, ITAT, New Delhi