

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"SMC" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 247/JP/2023
निर्धारण वर्ष / Assessment Years : 2010-11

Band Begam Shop No. 106 New Taxi Cycle Store, Ramganj Bazar, Jaipur	बनाम Vs.	ITO, Ward-1(3), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AOJPB 5492 A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Deepak Sharma (C.A.)
राजस्व की ओर से / Revenue by : Smt. Monisha Choudhary (JCIT)

सुनवाई की तारीख / Date of Hearing : 18/07/2023
उदघोषणा की तारीख / Date of Pronouncement : 28/07/2023

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal is filed by the assessee aggrieved from the order of the National Faceless Appeal Centre (NFAC), Delhi [Here in after referred as NFAC] for the assessment year 2010-11 dated 27.02.2023, which in turn arises from the order passed by the ITO, Ward-1(3), Jaipur passed under Section 147 r.w.s. 144 of the Income tax Act, 1961 (in short 'the Act') dated 26.10.2017.

2. The assessee has marched this appeal on the following

grounds:-

"1. The very action taken u/s 147 r.w.s 148 is bad in law, without jurisdiction and being void ab-initio, the same kindly be quashed. Consequently the impugned assessment framed u/s 144 r.w.s. 147 of the act dated 26-10-2017 also kindly be quashed.

2. That the impugned order u/s 144 r/w 147 of the Act dated 26.10.2017 is bad in law and on facts of the case, for want of jurisdiction and various other reasons and hence the same kindly be quashed.

3. That the Ld.CIT(A) erred in law as well as on the facts of the case in passing the impugned order in a haste without affording adequate and reasonable opportunity of being heard. The impugned order having been framed in gross breach of natural justice, kindly be quashed or alternatively be restored to the file of Ld. CIT(A).

4. That on the facts and in circumstances of the case the Ld. Assessing officer has grossly erred in law and facts in upholding best judgment assessment u/s 144 based on pure guess without reference to any evidence or material at all. Such assessment is liable to be quashed. Estimation of income must be fair, reasonable and intelligent well grounded.

5. That on the facts and in the circumstances of the case the learned Assessing Officer has grossly erred in law and facts in not issuing proper and valid notices and also notices u/s 142(1) of the Act before making best judgment assessment order additions/disallowance.

6. Rs. 6,48,000/-: The Id. CIT(A) erred in law as well as on the facts of the case in confirming addition made by the AO on account of alleged unexplained deposit in the Bank Account of Rs. 6,48,000/- u/s 69A of the Act. The addition so made and confirmed by the Id. CIT(A), being contrary to the provisions of law and facts kindly be deleted full.

7. Rs. 4,476/-: The Id.CIT(A) erred in law as well as on the facts of the case in confirming addition made by the AO on account of alleged interest of Rs.4,476/-.The addition so made and confirmed by the Ld.CIT(A) being contrary to the provisions of law and facts kindly be deleted in full.

8. The Id. AO further erred in law as well as on the facts of the case in charging interest u/s 234A and 234B of the Act. The appellant

totally denies its liability of charging of any such interest. The interest so charged, being contrary to the provisions of law and facts, kindly be deleted in full.

9. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.”

3. The fact as culled out from the records is that notice u/s 148 of I.T. Act issued on 27.03.2017 after recording reasons and prior approval from Pr. CIT-1, Jaipur u/s 151(1) of I.T. Act, 1961. The notice u/s 148 dated 27.03.2017 issued and sent through speed post. Due to change in incumbency fresh notice u/s 142(1) dated 16.06.2017 along with questionnaire was issued & sent through speed post. In response to the notice neither assessee filed any reply nor sought any adjournment, even return of income in response to Notice u/s 148 was not filed by the assessee till date. Finally notice u/s 142(1) dated 11.10.2017 issued to complete the assessment u/s 144 r.w.s 147 of I.T. Act, as the notice was served by the ward Inspector by Affixture at last known address. The case of the assessee was reopened on the basis of the information available on ITS data base that assessee has deposited cash amounting to Rs. 6,48,000/- in her bank account and also received interest of Rs. 4,476/-. As the assessee has not filed ITR, both the

amount were considered as income and the assessment was finalized, determining total income at Rs. 6,52,476/-.

4. Aggrieved from the order of the Assessing Officer, assessee preferred an appeal before the Id. CIT(A)/NFAC. A propose to the grounds so raised the relevant finding of the Id. CIT(A)/NFAC is reiterated here in below:

"5. DECISION: I have gone through and duly considered the facts emanating from grounds of appeal and statement of facts and other facts of the case available on the record. From the documents available on record, it is found that the appellant did not make satisfactory compliance to the notices issued by the A.O. and has not furnished documentary evidences to explain the nature & source of deposits made in the bank account.

During the appellate proceedings, the appellant has not complied for even once nor filed any written submission. In absence of the written submission and evidence, it remained to be unexplained as to how the AO's order is erroneous. If the appellant claims that the assessment order was objectionable he should have provided supporting arguments of evidences. The appellate proceedings are first line of remedy to those who think that the injustice has been done by the AO However, the appellant failed to avail the same by non-complying. Therefore, it is assumed that the appellant is not interested in pursuing his own appeal. Moreover, the appellant failed to bring on records any facts or documents which can explain how the order of the AO is erroneous.

In the case of Anil Goel Vs CIT, [2008] 306 ITR 212 (Punjab & Haryana), the Hon'ble High Court held as under.

"4. It is thus obvious on the plain language of section 250 of the Act that date and place of hearing was duly fixed. The assessee was also given notice along with notice to the Assessing Officer. The assessee had ample opportunity to make his submissions by appearing in person or through authorised representative. Despite fixing the case for seventeen

hearings, no one had put in appearance nor any justifiable reason for adjournment was given.

5. The Tribunal also found that non-recording of reasons in support of order passed by CIT(A) would not amount to committing any illegality because the CIT(A) has adopted the reasoning advanced by the Assessing Officer and has upheld his order. The judgment of this Court. in the case of Popular Engineering Co. v. ITAT (2001) 248 ITR 577", has been nightly relied upon wherein it has been observed that elaborate reasons need not be recorded by the CIT(A) as has been done by the Assessing Officer. The reasons are required to be clear and explicit indicating that the authority has considered the issue in controversy. If the appellate/revisional authority has to affirm such an order it is not required to give separate reasons which may be required in case the order is to be reversed by the appellate/revisional authority"

Accordingly, I agree with the reasons given by the AO and confirm his action of making addition of Rs. 6,48,000/- on account of unexplained cash deposits in bank accounts and Rs. 4,476/- on account of interest received during the year under consideration. The Grounds of appeal are hereby dismissed."

5. The Id. AR appearing on behalf of the assessee has placed their written submission which is extracted in below;

"Brief General Facts:

- (i) The assessee did not file any ROI for AY 2010-11 as the total income of assessee was below taxable limit. The case of assessee was reopened u/s 147 of the act and notice u/s 148 was issued on 27-03-2017.
- (ii) The case was reopened on the basis of information available on ITS data base that assessee has deposited cash amounting to Rs.6,48,000/- in her bank account and received interest of Rs.4476/- during FY 2009-10 and these receipts not found verified. The assessment u/s 144 r.w.s 147 was completed after making addition of Rs.6,52,476/- being alleged unexplained deposit in bank account.

- (iii) The assessee preferred an appeal before the Ld.CIT(A), which was decided by Ld.CIT(A), National Faceless Appeal Centre, Delhi vide order dated 27-02-2023, sustaining the assessment and addition made u/s 148, hence this appeal.

Ground of Appeal-1.1:

The very action taken u/s 147 r.w.s 148 is bad in law, without jurisdiction and being void ab-initio, the same kindly be quashed. Consequently the impugned assessment framed u/s 144 r.w.s. 147 of the act dated 26-10-2017 also kindly be quashed.

Ground of Appeal-2:

That the impugned order u/s 144 r/w 147 of the act dated 26-10-2017 is bad in law and on facts of the case for want of jurisdiction and various other reasons and hence the same kindly be quashed.

Facts:

- (i) The assessee is an individual lady working as house-maid for livelihood. During the year her total income was below the Maximum Amount not chargeable to Tax, therefore no Return of Income was filed by the assessee.
- (ii) Assessee was maintaining a bank account with UCO Bank Limited (PB 1-4), bearing Account Number 00110100022178. In the year under consideration certain cash deposits were made in the said bank account.
- (iii) The AO got the Information from ITS Data Base that the assessee has deposited cash amounting to Rs.6,48,000/- in her bank account maintained with Bank of India and received interest of Rs.4476 during the assessment year under consideration and said deposits were alleged to be not verified.
- (iv) The addition of Rs.6,48,000/- was made by the AO on the ground of alleged unverified bank deposits and addition of Rs.4476/- was made on account of interest earned on said bank account, resulting into total addition of Rs.6,52,476/-. (Page 2 of assessment order).
- (v) The action of AO was sustained by Ld.CIT(A) by passing an ex-parte order dated 27-02-2023.

Submissions:

Assessment made in Incorrect Name:

1. A perusal of assessment order dated 26-10-2017 shows that same has been passed in the name of Smt. Bano Begam, whereas in fact the name of assessee as per her PAN Data Base is Smt. Band Begam. The same is evident from the fact that Form 35 (For filing the appeal before CIT(A)) filed on 31-01-2018 is also bearing the name "Band Begam" instead of "Bano Begam". In this regards, a snap shot of e filing portal of income tax department is placed hereunder wherein the name of assessee is Band Begam and not Bano Begam.

The screenshot displays the e-Filing portal interface for an individual named BAND BEGAM. The page is titled "Personal Details" and includes a navigation menu on the left with options like "My Bank Account", "My Demat Account", "Register DSC", "E-filing Vault-Higher Security", "Secure Access Message", "Static Password", "Aadhaar OTP Login", "Jurisdiction Details", "Source of Income", "Authorised Signatory for Income tax Returns/Forms", "Representative Assessee", "Appreciations & Rewards", and "Portuguese Civil Code Applicability".

The main content area shows the following details:

- Profile:** Name: BAND BEGAM, Date of Birth: 12-Dec-1958, PAN: AOJPB5492A, Gender: Female, PAN Status: Active, Aadhaar Number: Link Aadhaar, Citizenship: --, Do you have a valid Passport Number?: No, Residential Status: Resident.
- Contact:** The contact details will be used for all future communications. Mobile: Primary (Self) +91 8302125395, Secondary (-) --, Residential/Office (Mobile) --, Residential/Office (Landline) +91 --, Email: Primary (Self) khanmustaq108@gmail.com, Secondary (Authorized Representative) aziz_associates@ymail.com.

A warning message at the top states: "The details as per your Profile and PAN may not be matching. You may ignore minor variations in address. In case you wish to update you may do so at your option. To view Click here".

2. It clearly goes on to show that Ld.AO entertained the reasons on the belief that name of assessee is Bano Begam and on the basis of same order has been passed in the name of Bano Begam. The same constitute recording reasons on wrong presumption of facts and without looking into the correct facts. On the said ground alone the assessment order passed by Ld.AO deserves to be quashed. In support of our contention we rely on following case laws.

- Hon'ble Jurisdictional ITAT in the case of Smt. Meena Baldua Vs ITO in ITA No.872/JP/2018 vide order dated 08.03.2019 by holding as under:

"Hence, we hold that the reasons recorded by the AO based on incorrect fact is not sustainable in law and liable to be quashed. Since, we quashed the reopening being invalid therefore, we do not propose to go into ground no. 2 of the assessee's appeal on the merits of the addition."

- Ram Mohan Rawat Vs ITO in ITA No.1014/JPR/2018 (Jaipur Trib.) vide order dated 10.10.2019 (Case Law#1) by holding as under:

"Thus making the wrong statement in the reasons recorded and ignoring the relevant and correct facts available on record established that the AO has not applied his independent mind while forming the opinion. The Chandigarh Bench of the Tribunal in case of Baba Kartar Singh Dukki Educational Trust vs. ITO (supra) has also considered an identical issue and held that the AO proceeded for reopening of the assessment for non-existent and factually incorrect reasons and has not applied his mind. The Tribunal has concluded in para 19 as under:-

"19. In view of the above discussion, I hold that the AO had taken an irrelevant fact into consideration and reopened the assessments on the basis of suspicion. Further more, the Assessing Officer proceeded for re-opening of the assessment on nonexistent and factually incorrect basis/reasons and has not applied his mind and did not verify the assessment records/returns filed by the assessee prior to recording of the reasons, therefore, reopening of the assessments for assessment year 2001-02, 2002-03 and 2003-04 is invalid and liable to be set aside/quashed. Accordingly, the orders of the authorities below are not sustainable and hence deserve to be quashed. I order accordingly."

Accordingly, in view of the above facts and circumstances of the case, when the AO has initiated the proceedings on the basis of non-existent and factually incorrect facts and reasons without application of mind and without verification of the facts available on record, then the proceedings initiated under section 147/148 are not sustainable in law. The same are set aside and consequential reassessment order is quashed."

Ground of Appeal: 4:

That on the facts and in circumstances of the case the Ld. Assessing officer has grossly erred in law and facts in upholding best judgment assessment u/s 144 based on pure guess without reference to any evidence or material at all. Such assessment is liable to be quashed. Estimation of income must be fair, reasonable and intelligent well grounded.

Submissions:

1. Assessment made without mentioning precise section: At Page-2 Para-3 of assessment order, addition has been made by recording the following finding:

In compliance of show cause notices issued neither the assessee attended nor furnished any explanation therefore it is clear that he has nothing to say in this respect and has no explanation. In view of above I have left no option but to complete the proceedings on merits and as per material available on record as best judgment assessment in the case of assessee. It is also clear and established that assessee has deposited in her bank account no. 00110100022178 amounting to Rs.6,48,000/- and received interest of Rs.4,476/- in saving bank account in bank of India, during the financial year 2009-10 relevant to Assessment Year 2010-11 which is treated as total income for the year. Penalty proceedings u/s 271(1)(b) initiated for non compliance of statutory notices issued from time to time.

During the financial year 2009-10 relevant to Assessment Year 2010-11 not complied the notice u/s 148 therefore notice u/s 148 dated 27.03.2017. Therefore penalty proceedings u/s 271(1)(b) initiated for non compliance of statutory notices issued.

In view of above discussion and verification of the documents/details/evidences available in this case, the income of the assessee is computed as under:-

Income, as discussed above	Rs. 6,52,476/-
Total Income	Rs. 6,52,476/-
Rounded off	Rs. 6,52,480/-

A perusal of the above shows that it has not been precisely mentioned under which section of income tax act the said addition has been made. Hon'ble Delhi ITAT in the case of Smt. Sudha Loyalka Vs ITO in ITA No. 399/Del/2017 (Delhi Trib) (Case Law#2) has categorically held that *"It has not been mentioned either by A.O or by Ld. CIT(A) as to under which section of the Income Tax Act, these closing credit balances appearing as on 31.03.2012 could be added. Therefore, non-mentioning the precise provision of law makes the impugned addition bad in law."*

2. While passing the order u/s 144, there is no such reference of any material to show that entire deposits of Rs.6,48,000/- constitute the income of

assessee of subjected assessment year only. In the assessment order, it has been mentioned that cash has been deposited in the bank account maintained with Bank of India, whereas the said bank account was maintained with UCO Bank. This fact further strengthen the fact that order has not been passed out of best judgement and application of mind and deserves to be quashed.

Ground of Appeal: 6

The Ld.CIT(A) erred in law as well as on the facts of the case in confirming addition made by the AO on account of alleged unexplained deposit in the bank account of Rs.6,48,000/- u/s 69A of the Act. The addition so made and confirmed by Ld.CIT(A) being contrary to the provisions of the provisions of law and facts kindly be deleted in full.

Ground of Appeal: 7

Ld.CIT(A) erred in law as well as on the facts of the case in confirming addition made by the AO on account of alleged interest of Rs.4476/-.The addition so made and confirmed by the Ld.CIT(A) being contrary to the provisions of law and facts kindly be deleted in full.

Submissions:

1. Source of Cash Deposits:

A perusal of bank statement will reveal a pattern of depositing and withdrawing the cash from the bank account. Right from the financial year 2007, instances of withdrawals and subsequent deposits can be observed in the bank account. For an instance Rs.3,00,000 were withdrawn on 19-05-2009 and the very same amount was deposited on 25-05-2009. Similarly Rs.48,000/- were withdrawn on 08-01-2008 out of which Rs.46,000/- were deposited on 05-03-2008. This pattern clearly reflects the behavior of assessee in making withdrawals and subsequent deposits. The total deposits of Rs.6,48,000/- made during the year also consists of either the withdrawals made during the year or withdrawals made in preceding year. The same is being submitted hereunder:

Withdrawals during the year and deposited during the year:

(a) In the assessment order, Ld.AO has considered the entire deposits of Rs.6,48,000/- as unverified/undisclosed, whereas a perusal of bank statement placed at Page 1-2 of Paper Books shows that in as much as Rs.6,77,000/- were withdrawn from the very same bank account in the year under consideration itself. An amount of Rs.3,00,000/- and 45,000/- were withdrawn on 25-05-2009 and 02-06-2009 respectively and more Rs.32,000/- were

withdrawn on 03-08-2009. The said amounts were available to make deposit of Rs.40,000/- on 01-10-2009, Rs.1,60,000/- on 03-02-2010 and 50,000/- on 11-02-2010,

(b) Under these facts It is evident that out of total deposits of Rs.6,48,000/-, deposits of Rs.2,50,000/- were duly explained from the withdrawals of Rs.3,77,000/- made prior to the deposits made on 01-10-2009, 03-02-2010 and 11-02-2010.

Withdrawn during the immediately preceding year and deposited during the year:

Out of total deposits of Rs.6,48,000/-, in addition to deposits of Rs.2,50,000/- as discussed above, remaining deposits of Rs.3,98,000/- were made in the manner of deposit of Rs.98,000/- on 11-05-2009 and Rs.3,00,000/- on 19-05-2009. (PB-1)

A perusal of bank statement will reveal that prior to said deposits, withdrawal of Rs.80,000/- was made on 10-09-2008 and Rs.20,000/- on 13-02-2009. Out of said withdrawal of Rs. 1,00,000/-, an amount of Rs.98,000/- were redeposited on 11-05-2009 (PB-1).

2. Deposits out of past savings and current year incomes: As submitted above, assessee lady was working as maid and was earning between 1,00,000/- to 1,20,000/- in or around the assessment year under consideration. Due to the nature of work of assessee, she used to get the amount of earnings in cash only. She has been doing this work since last more than 30 years thus the savings accumulated over the years of her hard work was available with her for redeposits. Under these facts and circumstances deposit of Rs.3,00,000/- on 19-05-2009 made out of her past savings may kindly be considered as explained. In this regards affidavit of assessee is also placed at Page 5-6 of Paper Book.

In support of our above contention we rely upon the decision of Hon'ble Bangalore Bench of ITAT in the case of Shri Girigowda Dasegowda Vs ITO in ITA No. 360/Bang/2022 vide order dated 10-08-2022.

3. For the sake of convenience, a table showing deposits and subsequent withdrawals is placed hereunder depicting various deposits and sources thereof:

Date	Particular	Dr (Withdrawals)	Cr (Deposits)	Balance	Source of Deposit
	Op		190346	190346	
7/11/2007	TO SELF	40000	0	150346	
2/1/2008	BY CASH		98000	248346	

7/1/2008	TR		1639	249985	
7/1/2008	INT		877	250862	
8/1/2008	TO SELF	48000	0	202862	
29/01/2008	TO SELF	17862	0	185000	
5/3/2008	BY CASH	0	46000	231000	
13/03/2008	TO CASH	36000	0	195000	
29/04/2008	TO SELF	100000		95000	
2/7/2008	INT		2480	97480	
8/8/2008	BY CASH		98000	195480	
10/9/2008	TO SELF	80000		115480	
5/1/2009	INT		2202	117682	
13/02/2009	TO SELF	20000	0	97682	
11/5/2009	BY CASH		98000	195682	Out of Withdrawal made on 10/9/2008 and 13/02/2009
19/05/2009	BY CASH		300000	495682	Out of Past Savings
25/05/2009	TO SELF	300000		195682	
2/6/2009	TO SELF	45000		150682	
3/7/2009	INT		1922	152604	
3/8/2009	TO SELF	32000		120604	
1/10/2009	BY CASH		40000	160604	Out of Withdrawals made on 25/05/2009, 02/06/2009 and 03/08/2009
4/1/2010	INT		2554	163158	
3/2/2010	BY CASH		160000	323158	Out of Withdrawals made on 25/05/2009, 02/06/2009 and 03/08/2009
11/2/2010	BY CASH		50000	373158	Out of Withdrawals made on 25/05/2009, 02/06/2009 and 03/08/2009
26/03/2010	TO SELF	300000		73158	

In view of the facts and circumstances explained above, the addition made in the hands of the assessee is unjustified, excessive and kindly be deleted in full.

Ground of Appeal 3:

That the Ld.CIT(A) erred in law as well as on the facts of the case in passing the impugned order in a haste without affording adequate and reasonable opportunity of being heard. The impugned order having been framed in gross

breach of natural justice, kindly be quashed or alternatively be restored to the file of Ld. CIT(A).

Submissions:

1. In the year 2013, the assessee lady fell down from the first floor of house and got injured after that she has been bed ridden only. Due to said accident her source of income got completely stopped and she came into an acute financial hardship. Due to such medical conditions and financial hardships she could not coordinate with her counsels to peruse and argue the case. At the appellate stage also her medical and financial conditions her deprived her from the justice therefore, the poor lady assessee is before the Hon'ble Bench with the request that if Hon'ble Bench is not inclined to accept her contentions as raised in forgoing grounds, the case may kindly be restore to the file of Ld.AO or CIT(A) so that true facts of the case can be presented and justice can be done.”

6. The Id. AR of the assessee in addition to the written submission filed also submitted that there are merits of the case but the assessee remained non-compliant before the lower authorities because she is bed ridden, as she fall down from stair and she is still bed ridden. There is no intention of the assessee to remain non-compliant. To substantiate this fact the assessee filed a detailed affidavit confirming the source of income and reasons for non-compliant. The Id. AR of the assessee thus, prayed that the assessee seek justice from the bench as the appeal filed before Id. CIT(A) is also exparty and there is no finding on the merits of the case by the Id. CIT(A).

7. The Id DR is heard who has relied on the findings of the lower authorities and submitted that both the orders of the lower authorities are ex-party. But considering the facts of the case as stated in the affidavit, that the assessee is bed ridden and her spinal code is seriously damaged. Based on these facts she consented that the appeal of the assessee be decided based on the set of facts placed before the bench.

8. We have heard the rival contentions and perused the material placed on record. It is not disputed that the orders of the lower authorities passed ex-party. The assessee filed an affidavit submitting the reasons behind the non-compliant. The Id. DR did not controvert the fact that the assessee is seriously ill and bed ridden due damage in spinal code of the assessee. Though, the orders of the lower authorities are ex-party but considering the plea of the Id. AR of the assessee the bench has decided to pass the order in this appeal on merits rather than sending back to the filed of the Id. AO. The contention of the assessee based on the bank statement on record, it is evident that the assessee sufficient withdrawal also to justify the amount deposited in the bank

account. Considering the fact that the fact that the assessee was earning lady as stated in her affidavit and she has sufficient amount of withdrawal to justify the cash deposited into the bank account. As argued before us that the assessee presently facing severe health issue and considering this set of facts supported by affidavit and based on the record which is not disputed by the revenue we are of the considered view that the assessee has sufficient withdrawal on hand to justify the cash deposit. Due to medical conditions and financial hardships she could not coordinate with her counsels to peruse and argue the case before lower authorities. At the appellate stage also her medical and financial conditions shows that the assessee has sufficiently tried to substantiate that the addition is not justified. The relevant cash flow statement based on the bank statement submitted is reproduce here in below :

Date	Particular	Dr (Withdrawals)	Cr (Deposits)	Balance	Source of Deposit
	Op		190346	190346	
7/11/2007	TO SELF	40000	0	150346	
2/1/2008	BY CASH		98000	248346	
7/1/2008	TR		1639	249985	
7/1/2008	INT		877	250862	
8/1/2008	TO SELF	48000	0	202862	
29/01/2008	TO SELF	17862	0	185000	
5/3/2008	BY CASH	0	46000	231000	

13/03/2008	TO CASH	36000	0	195000	
29/04/2008	TO SELF	100000		95000	
2/7/2008	INT		2480	97480	
8/8/2008	BY CASH		98000	195480	
10/9/2008	TO SELF	80000		115480	
5/1/2009	INT		2202	117682	
13/02/2009	TO SELF	20000	0	97682	
11/5/2009	BY CASH		98000	195682	Out of Withdrawal made on 10/9/2008 and 13/02/2009
19/05/2009	BY CASH		300000	495682	Out of Past Savings
25/05/2009	TO SELF	300000		195682	
2/6/2009	TO SELF	45000		150682	
3/7/2009	INT		1922	152604	
3/8/2009	TO SELF	32000		120604	
1/10/2009	BY CASH		40000	160604	Out of Withdrawals made on 25/05/2009, 02/06/2009 and 03/08/2009
4/1/2010	INT		2554	163158	
3/2/2010	BY CASH		160000	323158	Out of Withdrawals made on 25/05/2009, 02/06/2009 and 03/08/2009
11/2/2010	BY CASH		50000	373158	Out of Withdrawals made on 25/05/2009, 02/06/2009 and 03/08/2009
26/03/2010	TO SELF	300000		73158	

Based on these facts that the assessee has sufficient withdrawal and income to justify the cash deposit. Except this deposit of cash and withdrawal there is no other credit in this account and therefore, based on the above discussion we hold that the addition of Rs. 6,48,000/- made by the Id. AO does not survive. As we have decided the cash of the assessee on merits the technical ground

taken by the assessee becomes educative and the same are not disposed off.

In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 28/07/2023.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 28/07/2023

*Ganesh Kumar, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Band Begam, Jaipur
2. प्रत्यर्थी / The Respondent- ITO, Ward-1(3), Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 247/JP/2023 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar