

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER

**ITA No.1433/M/2023
Assessment Year: 2017-18**

Mrs. Pushpa Chandrakant Pagare, 59, 2 nd Floor, Bldg No.E, BIT Block, Laxmi Narayan Lane, Central Matunga East, Mumbai – 400 019 PAN: AGNPP3310K	Vs.	CIT, Maharshi Karve Rd., New Marine Lines, Churchgate, Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri B. Laxmi Kanth, D.R.

Date of Hearing : 12 . 07 . 2023
Date of Pronouncement : 24 . 08 . 2023

O R D E R

Per : Kuldip Singh, Judicial Member:

At the very outside it is brought to the notice that the present appeal is time barred having been filed with a delay of 100 days. The appellant Ms. Pushpa Chandrakant Pagare (hereinafter referred to as the assessee) by moving an application supported with an affidavit sought to condone the delay on the grounds inter-alia that he is a senior citizen and was not keeping well due to old age health issues and financial problems; and that the delay is neither intentional nor malafide. Keeping in view the fact that the assessee is a retired teacher and senior citizen stated to be suffering from old

age ailments and being a low salaried employee was not having any financial advisor of her own which is a sufficient cause to condone the delay. So the delay of 100 days is hereby condoned.

2. The assessee by filing the present appeal, sought to set aside the impugned order dated 18.11.2022 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)] qua the assessment year 2017-18 on the grounds inter-alia that :-

“Case relates to the cash deposited by the Assessee amounting to Rs.12.85,000/- in her saving bank account. The Assessee claimed that the said cash was deposited out of her accumulated saving for last 30-35 years of service, cash withdrawals from her bank accounts during the year and gift from her sister-in-law However, at the time of assessment proceedings with AO, the assessee failed to substantiate the sources of cash by documentary evidence, as she is a senior citizen and a small salaried employee having little knowledge about the accounting procedures associated with the assessment and was unable to consult any CA for representation purposes. Hence, the AO treated the cash deposit as unexplained money under section 69A of the Act. That the AO has erred in law and on facts in making the addition of Rs.12,85,000 being the total amount of cash deposit in the bank accounts as unexplained money however the assessee is having legitimate source of funds relating to said deposit of cash in bank.”

3. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : the assessee was a salaried employee working as a teacher in KMS Dr. Shirodkar High School and Jr. College and has declared income under the head ‘salary and income from other sources’. Assessing Officer (AO) noticed that during demonetisation the assessee has deposited cash amount of Rs.12,85,000/- in her bank account. On failure of the assessee to furnish explanation or source of cash deposit the AO proceeded to make the addition of Rs.12,85,000/- deposited in her bank account under section 69A of the Income Tax Act, 1961 (for short 'the Act') and thereby framed the assessment under section 143(3) of the Act.

4. The assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has confirmed the addition by dismissing the appeal. Feeling aggrieved with the impugned order passed by the Ld. CIT(A) the assessee has come up before the Tribunal by way of filing present appeal.

5. Notice of the appeal was issued to the assessee on 12.07.2023 which was received back undelivered with the remarks that “assessee has left the place of his last address”. Perusal of the form No.36 shows that the notice was duly sent on the given address and no fresh address, if any, was intimated by the assessee. In these circumstances the appeal cannot be kept pending and hence the Bench has decided to dispose of the same on the basis of material available on record with the assistance of the Ld. D.R. for the Revenue.

6. I have heard the Ld. D.R. for the Revenue, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and case law relied upon.

7. Undisputedly the assessee has filed return of income for the year under consideration declaring total salary income of Rs.6,00,200/-. It is also not in dispute that the assessee is a teacher working with KMS Dr. Shirodkar High School. In the backdrop of the aforesaid undisputed facts the assessee produced the explanation/source of funds deposited in the bank account during demonetization before Ld. CIT(A) which is extracted for ready perusal as under:

PUSHPA CHANDRAKANT PAGARE		AY : 2017-2018	
Source of funds deposited in bank			
Sr. Particulars		Amt (in Rs.)	
1	Opening balance as at 01/04/2016 accumulated out of:		
	i Savings from 30-35 years of service as a teacher in a Govt aided School	238600	
	ii Savings from various petty gifts received from parents and relatives on multiple occasions as per hindu customs and traditions	125000	
	iii Savings from house expenses received from husband on which I had kept aside small amounts	140000	
	iv Gift received from mother as she was of old age and expired 1.5 years ago.	150000	
	v Gift received from mother -in-law as she was also of old age.	50000	703800
2	Withdrawals from the following bank accounts during the year and savings after household expenses As I am a 58 year old woman and have two working son to look after the household the expenses I bear are minimal		
	i Union Bank of India (SB a/c no - 564102010008858)	160700	
	ii Greater Bombay Co-op Bank (SB a/c no -1020401486)	299000	
	iii Bank of India (SB a/c no - 003512100021361)	1500	
		481200	
	Less : Household expenses paid for using this withdrawal	-120000	341200
3	Gift received from sister-in-law Mrs. Jayashree Baburao Jadhav (PAN: ACLPJ2884N) who is working with Dena Bank as an officer, having a salary of around Rs. 6 Lacs. The said cash was given because of death of my husband and for helping my children The said money has been withdrawn from her Savings Bank Account maintained with Dena Bank Airoli Branch on 29/09/2015 out of her salary income. (Cheque No: 399725)		240000
			<u>1285000</u>
Note: I am a salaried person for the last 30-35 years and I am not required to maintain any books of Accounts. Hence the above details were compiled on the basis of my memory and estimates.			
<i>P. C. Pagare</i> PUSHPA CHANDRAKANT PAGARE			

03-03-2017		10000
		<u>150700</u>
2	GREATER BANK SB ACCOUNT NO 1020401486-0	
	Date	Amt. Rs.
	26-04-2016	10000
	12-05-2016	20000
	20-05-2016	15000
	05-07-2016	30000
	07-07-2016	170000
	08-07-2016	30000
	10-11-2016	1000
	11-11-2016	5000
	30-01-2017	15000
	24-03-2017	3000
	Total	<u>299000</u>
3	BANK OF INDIA NO 003512100021361	
	Date	Amt. Rs.
	27-04-2016	1500
	Total	<u>1500</u>
Total of cash withdrawals from all banks through the year		481200
<i>P. C. Pagare</i>		

8. Ld. CIT(A) has declined to accept the explanation given by the assessee merely on the basis of human probability that no huge cash can be retained at home nor any medical emergency was shown for keeping such huge cash at home. It is noticed from the explanation/source of funds deposited in the bank account by the assessee extracted in the preceding paras, it is categorically mentioned that assessee has made total savings of Rs.2,38,800/- in her 30-35 years of service as a teacher in government aided school and Rs.1,25,000/- she has shown being the various petty gifts received from parents and relatives on multiple occasions. She has shown Rs.1,40,000/- as savings from house expenses received from her husband on which she had kept aside the small amounts. She has also shown the withdrawal from the Union Bank of India to the tune of Rs.1,60,700/-, withdrawn amount of Rs.2,99,000/- from Greater Bombay Co-operative Bank and amount of Rs.1500/- from Bank of India saving account. She has also shown amount of Rs.2,40,000/- being the gift received from sister in law who is working in Thane bank as an officer which was given to the assessee on account of death of her husband and for helping her children.

8. When I examine the aforesaid explanation in the light of the fact that the assessee herself remained as a teacher for 30 – 35 years in a government aided school and when her husband died she received an amount of Rs.2,40,000/- from her sister in law who is working as a bank officer as a financial aid for helping her children. The assessee has also shown the withdrawal of Rs.2,99,000/- from Greater Bank savings account during the period from 26.04.2016 to 24.03.2017. All these facts go to prove that the assessee was

having sufficient funds with her and as such here explanation can not be disbelieved merely on the ground that such huge cash amount cannot be kept by a person of ordinary prudence at home without any emergency. It is a matter of common practice in Indian society that ladies generally make savings and invariably keep the same at home. When the assessee was having sufficient funds keeping the amount of Rs.12,85,000/- and depositing the same in the bank during demonetisation is a normal nature of the Indian household in general and women employees in particular. Moreover when the assessee was getting regular salary as a government employee and worked for 30-35 years saving an amount of Rs.12,85,000/- does not appear to be beyond her known sources.

9. So in view of what has been discussed above I am of the considered view that Ld. CIT(A) has erred in accepting the explanation given by the assessee hence the order passed by Ld. CIT(A) is set aside and AO is directed to delete the addition made in this case.

10. Resultantly, appeal filed by the assessee is allowed.

Order pronounced in the open court on 24.08.2023.

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Mumbai, Dated: 24.08.2023.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.