

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH: 'SMC': JODHPUR  
(VIRTUAL HEARING AT DELHI)**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No:- 463/JODH/2018  
(Assessment Year: 2010-11)**

Yogesh Kumar Kotiya, 3-C-4, Patel Nagar, Bhilwara.	Vs.	I.T.O., Ward-4, Bhilwara.
<b>PAN No: ARWPK8779M</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Rajendra Jain, Advocate  
**Revenue by** : Shri Rajeev Mohan, JCIT-DR

**Date of Hearing** : 12.09.2023  
**Date of Pronouncement** : 20.09.2023

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. CIT(Appeals), Ajmer, vide appeal no. 507/2017-2018 dated 10.07.2018 against the assessment order passed U/s 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") dated 17.01.2018 passed by ITO, Ward-4, Bhilwara, for assessment year 2010-11.

2. Ground taken by the assessee is in respect of addition of Rs. 5,76,000/- on account of deposit of cash in Bank Account.

3. Brief facts of the case are that assessee did not file his return of income. Owing to deposit of cash of Rs. 10,68,000/- in a saving bank account, case of the assessee was taken up by issuing a notice U/s 148 of Act on 23.03.2017 which was duly served to the assessee. Assessee filed his return in response to notice U/s 148 of the Act on 11.09.2017, reporting total income of Rs. 1,50,600/-, including income from salary and income from business U/s 44AD of the Act. Assessee is engaged in retail trading business of fabric. Before the Ld. AO, assessee submitted his explanation in respect of deposit of cash in his bank account which are claimed to be out of business receipts. Assessee also claimed that he had opening cash balance in his personal balance sheet and had taken unsecured loans from his parents. Disregarding the submission made by the assessee, Ld. AO made the addition of Rs. 9,00,000/- towards unexplained cash deposit and completed the assessment.

4. Aggrieved, assessee went into the appeal before the Ld. CIT(A)

5. Ld. CIT(A), after considering the submissions made by the assessee which included cash flow statement, accepted an amount of Rs. 3,24,364/- as cash sales and deleted the addition to this extent. He confirmed the addition of the remaining amount of Rs. 5,76,000/-. Aggrieved, assessee is in appeal before the Tribunal.

6. Before us, Ld. Counsel for the assessee made written submission and explained the source of deposit of cash of Rs. 5,76,000/-. The same is tabulated as under:

<i>Amount</i>	<i>Source</i>
<i>Rs. 414500/-</i>	<i>Cash balance available in personal balance sheet as on 1.4.2009, copy enclosed</i>
<i>Rs. 124000/-</i>	<i>Cash balance available in business balance sheet as on 1.4.2009, copy enclosed</i>
<i>Rs.19000/-</i>	<i>Cash deposited out of unsecured loans taken from father sh. Kanhaiya Lal</i>
<i>Rs.18500/-</i>	<i>Cash deposited out of unsecured loans taken from mother r Smt. Pushpa Devi</i>
<i>Rs.576000/-</i>	<i>Total</i>

7. He further elucidated on the source stated in the table above which is reproduced as under:

*"Rs.414500/- was deposited out of cash balance available as on 01.04.2009 in individual capacity. In support, personal balance sheet as on 31.03.2009 was submitted at the time of assessment vide reply Dt 08-12-2017.*

*Rs.124000/- was deposited out of cash balance available as on 01.04.2009 in balance sheet of business. In support, balance sheet of business as on 31.03.2009 was submitted at the time of assessment vide reply Dt 08-12-2017.*

*Unsecured Loan of Rs.19000/- was taken from Father Sh Kanhaiya Lal for business purpose and deposited into bank account. Confirmation of unsecured loan from father Sh. Kanhaiya Lal was also submitted to the Assessing Officer along with reply Dt 08-12-2017. Amount of Rs.19000/- is so small, which may be supposed to be available with any person.*

*Unsecured Loan of Rs.18500/- was taken from Mother Smt Pushpa Devi for business purpose and deposited into bank account. Confirmation of unsecured loan from Mother Smt. Pushpa Devi was also submitted to the Assessing officer along with reply Dt 08-12-2017. Amount of Rs. 18500/- is so small, which may be supposed to be available with any house wife."*

8. Per contra, Ld. Sr. DR relied on the order of the Ld. CIT(A).
9. We have heard the rival contentions and perused the material available on record. We have also gone through the written submissions placed by the Ld. Counsel before us, details of which are extracted above. We note that Ld. CIT(A) has given partial relief by accepting the sales receipts which were in cash. Assessee is engaged in the business of retail trading business of fabric and has reported his income U/s 44AD of the Act. Further, from the perusal of the records and documents placed before us, we find that assessee has explained the source of cash available with him including unsecured loan received from his parents duly supported by documentary evidences. Considering all of this, we delete the addition of Rs. 5,76,000/- which is sustained by the Ld. CIT(A). Accordingly, ground taken by assessee is allowed.
10. In the result, appeal of the assessee is allowed.

Order pronounced in the Open Court on 20.09.2023

**Sd/-**  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Dated: 20 /09/2023.

Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	15.09.23
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	