

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'D' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE-PRESIDENT
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.276/Del/2022
Assessment Year: 2017-18

Sh. Vikas Arora, BC-59, Nirvana Country, Gurgaon	Vs.	ACIT, Haryana
PAN :AHCPA2887J		
(Appellant)		(Respondent)

Assessee by	Sh. Pratap Gupta, CA
Department by	Sh. Sanjay Kumar, Sr. DR

Date of hearing	19.09.2023
Date of pronouncement	22.09.2023

ORDER

This is an appeal by the assessee against order dated 18.10.2021 of learned Commissioner of Income Tax (Appeals)-43, New Delhi, pertaining to assessment year 2017-18.

2. The solitary dispute arising in the appeal relates to addition of an amount of Rs.5,99,000/- under section 69C of the Act.

3. Briefly the facts are, the assessee is a non-resident Indian individual. As stated, the assessee stays in Germany. For the assessment year under disputed, the assessee filed its return of

income on 18.01.2018, declaring income of Rs.8,27,770/-. The assessee's case was selected for limited scrutiny to examine large cash payments made for credit card purchase. In course of assessment proceedings, the assessee was called upon to explain the source of cash payments made towards credit card bills. In response to the query raised the assessee submitted that he was having a credit card from IndusInd Bank with drawing limit of Rs.4,50,000/-. He submitted, since, he stays abroad, the credit card is being used by him as well as his family members. It was submitted by the assessee that the payments towards credit card bills were made out of rental income received in India as well as his personal income earned in Germany. The Assessing Officer, however, did not find merit in the explanation of the assessee and treated the cash payment made towards credit card bills as unexplained money under Section 69C and added back an amount of Rs.5,99,000/- to the income of the assessee. Though, the assessee contested the aforesaid addition before learned first appellate authority, however, he was unsuccessful.

4. Before us, learned counsel appearing for the assessee reiterated the stand taken before the departmental authorities. He submitted that the cash payment towards credit card bills was

out of the withdrawal of Rs. 11,09,000/- made during the preceding assessment year. He submitted, since, the assessee stays abroad and his old parents are staying in India, he left his credit card with the parents, who were using it for their needs and day to day expenditure. He submitted, additionally, the assessee used to send money regularly from his bank account in Germany to the bank account of his son, who is an Indian resident and his son has sufficient cash withdrawals from his bank account to make the payments of credit card bills in cash. Thus, he submitted, the assessee had sufficient resources to pay the credit card bills in cash. He submitted, being a non-resident and because of his personal difficulties in travelling frequently to India, he had requested the Assessing Officer to obtain the credit card statements from the bank and share the same with him for enabling him to properly explain the source of cash payment, however, it was not provided. He submitted, in the meanwhile, the assessee has been able to gather further documentary evidences, such as, computation of income for assessment year 2017-18, detail/summary of credit card statements, copy of bank statements of his son, which due to practical difficulties could not be submitted before the departmental authorities. Thus, he made

a prayer before the Bench to submit them as additional evidence in terms of Rule 29 of Income Tax (Appellate Tribunal) Rules, 1963. He further made a submission that the additional evidence may be admitted and the issue may be restored back to the Assessing Officer for considering assessee's submission in the light of the additional evidence now filed.

5. We have considered rival submissions and perused the materials on record. On a reading of the assessment order as well as order of learned first appellate authority, it is evident, the disputed addition has been made primarily for the reason that no supporting documentary evidences could be furnished by the assessee to explain the source of cash payments made towards credit card bills. Before us, the assessee has submitted that he has sufficient cash balance with him by way of withdrawal from the bank account in the preceding assessment year as well as withdrawals made by his son, staying in India, out of the regular remittances made by the assessee from Germany to the bank account of his son. To substantiate his claim, the assessee has furnished certain additional evidences before us, as noted above. Admittedly, these evidences were not furnished before the departmental authorities, hence, they had no occasion to examine

the veracity of assessee's claim in the light of the evidences now filed.

6. In view of the aforesaid, though we admit the additional evidences, however, to provide a fair opportunity to Department the issue is restored back to the Assessing Officer for *de novo* adjudication, after considering the submissions of the assessee in the light of the additional evidences filed and any other evidence, which the assessee may file to substantiate his claim. Needless to mention, the Assessing Officer must provide due and reasonable opportunity of being heard to the assessee before deciding the issue. Grounds are allowed for statistical purposes.

7. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 22nd September, 2023

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 22nd September, 2023.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi