

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “SMC”, MUMBAI**

SHRI KULDIP SINGH, JUDICIAL MEMBER

**ITA No.1355/M/2023
Assessment Year: 2016-17**

M/s. Lalit Vitaldas Panchal, H- 204, Ghodbunder Road, Bhumi Acres, Phase-II-Hiranandani Estate, Thane, 400 615 Maharashtra PAN: ALLPP2772J	Vs.	ITO WARD-29(2)(2), Pratyakshakar Bhavan, C-10, Bandra Kurla Complex, Bandra East, Mumbai- 400 051
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Shashank Mehta, A.R.
Revenue by : Shri B. Laxmi Kanth, D.R.

Date of Hearing : 08. 08 . 2023
Date of Pronouncement : 31. 08 . 2023

O R D E R

Per : Kuldip Singh, Judicial Member:

The appellant, M/s. Lalit Vitaldas Panchal (hereinafter referred to as ‘the assessee’) by filing the present appeal, sought to set aside the impugned order dated 20.02.2023 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) qua the assessment year 2016-17 on the grounds inter-alia that :-

“Appellant is aggrieved with the impugned order dated 20/02/2023 issued u/s. 250 of the Act, 1961 for AY 2016-17 issued by NATIONAL FACELESS APPEAL CENTRE (NFAC).

1. THAT, in consequence of impugned order dated 20/04/2023 intrinsically following additions were upheld by Id. NFAC made by AO vide assessment order dated 17/12/2018:-

a. Addition on account of unexplained cash credits u/s. 68 of the Act amounting to Rs.2,31,739/-

2. THAT, above mentioned ground are without prejudice to each other and appellant craves leaves to add, amend, alter, delete, modify any of the grounds as mentioned above.”

2. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : assessee's return of income declaring total income of Rs.4,40,360/- was subjected to limited scrutiny for the reasons "large cash deposited in savings bank account and the assessee has also transferred one or more properties during the year under consideration". assessee furnished necessary documents as required by Assessing Officer (AO) during the assessment proceedings. The AO noticed cash deposit of Rs.13,60,000/- in the savings bank account No.9227 maintained with Jan Kalyan Sahakari Bank Limited during the year under consideration. During the assessment proceedings assessee succeeded in explaining the source of cash deposit to the tune of Rs.8,96,523/- and on failure of the assessee to explain the remaining cash deposit of Rs.4,63,477/- AO added the same to the income of the assessee as unexpected cash credit under section 68 of the Income Tax Act, 1961 (the Act).

3. The assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has partly allowed the appeal by deleting the 50% of the addition i.e. Rs.2,31,739/-. 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.

4. I have heard the Ld. Authorised Representatives of the parties to the appeal, 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 law applicable thereto.

5. Undisputedly assessee is a salaried employee with KEC International Limited since 2008 and has brought on record return of income filed from A.Y. 2012-13 to 2016 – 17 which consistently shows the annual income of Rs.4,00,000/- to Rs.6,00,000/-.

6. The Ld. A.R. for the assessee further contended that the entire amount of Rs.13,60,000/- deposited in the bank account was from his own withdrawal from his own bank account and from the bank account of his wife and sale of property out of which amount of Rs.8,96,523/- has been accepted as explained.

7. Ld. A.R. for the assessee further contended that the cash deposit was kept by the assessee with him to meet with the medical emergency of his daughter who is not feeling well and getting regular treatment.

8. Ld. A.R. for the assessee also explained the cash withdrawal and thereafter cash in hand which was subsequently deposited in the bank account in a tabulated form as under:

Source of cash in hand	Amount In Rs.	Remark
Cash in hand as on 01.01.2012 with the Appellant	80,820/-	Opening Balance
Add: Cash withdrawals made from & 01.01.2012 - 31.03.2015	8,05,700/-	Date wise summary on pg no. 8 Bank statement reflecting each cash withdrawal on page no. 9-64
Add: Cash withdrawals made? during FY 2015-16	2,44,000/-	

Less: Cash deposits already made in bank before FY 2015-16	37,000/-	Date wise summary on page no.4 Bank statement reflection each cash deposits on page no. 9-64
Less: Cash drawings/used for self before FY 2015-16	1,84,800/-	Page no.7 of paper book
Less: Cash drawings/used for self	74,480/-	
during FY 2015-16 Balance cash in hand available with Appellant for FY 2015-16	8,34,240/-	Out of this available cash the appellant had deposited rs.463477/- during FY 2015-16

9. Perusal of the impugned order passed by Ld. CIT(A) shows that the Ld. CIT(A) without going into the merits deleted an amount of Rs.2,31,739/- being 50% of Rs.4,63,477/- as explained on estimation basis. However, when the chronology of withdrawal of amount by the assessee from the bank of which complete summary and bank statement has been given at page 8 to 64 of the paper book, the assessee being a salaried employee had been regularly maintaining his bank account by withdrawing the cash and depositing the same. Salaried person who is continuously in service from 2008 and drawing a salary in the range of Rs.4,00,000/- to Rs.6,00,000/- per year savings of Rs.2,31,739/- kept as cash in his house to meet with the medical expenses of his daughter is a plausible explanation. So in these circumstances, I am of the considered view that assessee had cash in hand of Rs.2,31,739/- treated as unexplained by the Ld. CIT(A) was out of the cash withdrawn by him at a different intervals to meet with the medical expenses of his daughter and as such addition of

Rs.2,31,739/- being 50% of total addition of Rs.4,63,477/- made by the AO is not sustainable hence ordered to be deleted by the AO.

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

Order pronounced in the open court on 31.08.2023.

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

Mumbai, Dated: 31.08.2023.

* 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.