

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

**Before Sh. C. M. Garg, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 2194/Del/2022 : Asstt. Year : 2018-19**

|   |    |   |
|---|----|---|
| Nishant Pitti,<br>C-179, Vivek Vihar Area,<br>New Delhi-110095<br>(APPELLANT) | Vs | DCIT,<br>Central Circle-4,<br>New Delhi<br>(RESPONDENT) |
| <b>PAN No. APKPP7345A</b>   |    |   |

**Assessee by : Sh. Nirbhey Mehta, Adv.  
Revenue by : Ms. Smita Singh, Sr. DR**

|                                    |  |
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| <b>Date of Hearing: 17.07.2023</b> | <b>Date of Pronouncement: 11.10.2023</b> |
|------------------------------------|--|

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-23, New Delhi dated 28.06.2022.

2. Following grounds have been raised by the assessee:

*"1. That on the facts and circumstances of the case and in law the order passed by Id. CIT(A) is contrary to the facts and bad in law.*

*2. that on the facts and circumstances of the case and in law, the Id. CIT(A) is not justified in sustaining addition of Rs.18,95,859/- out of total addition of Rs.43,86,000/- on account of cash found during search from the residential premises of the appellant by rejecting the explanation that the said amount of cash belonged to the appellants company Easy Trip Planners Pvt. Ltd.*

*3. That the Id. CIT(A)-23 was not justified in upholding the action of AO in taxing the cash found during search u/s 115BBE of the Income Tax Act, 1961."*

3. A search and seizure action u/s 132 of the Income Tax Act 1961 was carried out in Easy Trip Planners Pvt. Ltd. (ETPPL) group of cases on 10.08.2017 during F.Y. 2017-18. During search at C-179, Phase-I, Vivek Vihar, New Delhi, the residence of the assessee cash of Rs. 48,66,000/- was found and out of the same Rs.46,00,000/- was seized.

4. The assessee filed his original return of income u/s 139(1) on 31.08.2018 declaring total income of Rs. 2,99,50,450/-. Since search was initiated in this case, the case was picked up for compulsory scrutiny and notice under section 143(2) of the Act was issued on 26.09.2019 and income was assessed at Rs.3,43,36,450/- vide order dated 27.12.2019.

**Proceedings before the AO:**

5. During the search and seizure operation cash amounting to Rs. 48,66,000/- was found from the residential premises of the assessee at C-179, C-Block, Phase-I, Vivek Vihar, New Delhi-110095. The assessee in his statement on oath recorded u/s 132(4) during the course of search and seizure operation was asked to explain the source of cash of Rs. 48,66,000/- found in search and seizure operation. In response the assessee stated that the cash of Rs. 48,66,000/- was the collection money received from agents clients and corporates and some cash was family savings. During the course of assessment proceedings the assessee was categorically asked as to why Rs. 48,66,000/- should not be treated as unexplained money u/s 69A of the Income Tax Act. The assessee in response had stated that the cash belonged to family members of the assessee and of the company Easy Trip Planners Pvt. Ltd., of which the assessee is a director and some cash collected from agents and clients for the company Easy Trip

Planners Pvt. Ltd. As per the reply of the assessee the cash belonging to the family members was appearing in the personal Balance Sheet of the family members as on 31.03.2017. As regards cash belonging to Pitti Coal Company and Easy Trip Planners Pvt. Ltd. the assessee had submitted extracts of Cash Book for the period from 01.04.2017 to 10.08.2017. The AO in the order had observed that the contention of the assessee was not acceptable since the assessee had failed to file the cash balance available with the family members as on the date of search. The AO further observed that the assessee had made contradictory statements on two occasions i.e. on the date of search and seizure operation and during assessment proceedings. The assessee on the date of search had stated that the cash was from collection agents, however during the assessment proceedings, the assessee had stated that cash belonged to family members and furnished statement of affairs of family members as on 31.03.2017. However, the assessee failed to furnish cash flow statement from 01.04.2017 to 10.08.2017 i.e. the date of search. The assessee also failed to establish that the cash belonged to business receipt of the company namely Easy Trip Planners Pvt. Ltd. through some tangle documents. The AO observed that considering the family of the assessee consisting of 8 adult members some cash being held by each family member considering their income level and status cannot be ruled out and accordingly allowed Rs.60,000 cash in hand of each family member which came to Rs. 4,80,000/- (60,000 X 8) and balance amount of Rs. 43,86,000/- was disallowed by treating the same as unexplained money under section 69A of the Income Tax Act.

6. Aggrieved, the assessee filed appeal before the Id. CIT(A).

**7. Decision of the Id. CIT(A):**

- The AO as per the assessment order has accepted that cash in hand as on 31.03.2017 appearing in statement of affairs was available with the family members, the only argument of the AO was that since the assessee has not furnished cash flow statement from 01.04.2017 till 10.08.2017 the argument put forth by the assessee was not acceptable.
- It emerges that the cash in hand as on 31.03.2017 appearing in the statement of affairs of family members is not disputed and the same was available. However since the assessee has not furnished any details regarding the cash expenses incurred from 01.04.2017 to 10.08.2017 it cannot be ruled out that the family members of the assessee must have incurred certain cash expenses out of the cash in hand available as on 31.03.2017.
- On the premise there are 8 adult and some children staying in the premise from where the cash was found, apart from the allowance of Rs.4,80,000/-, another Rs.10 Lakhs (Rs 25000 x 8 Per Month for five months) is treated as expenditure made from available cash in hand as on 31.03.2017 till the date of search.
- Thus, total Rs. 10,00,000/- is estimated as cash expense by the Id. CIT(A) from 01.04.2017 till 10.08.2017 and the cash in hand as on 10.08.2017 available with family members is calculated as under:

|   |                 |
|---|-----------------|
| Total Cash in Hand as on 31.03.2017                         | Rs. 39,70,141/- |
| Less Cash expenses incurred from 01.04.2017 till 10.08.2017 | Rs. 10,00,000/- |
| Cash in and as on 10.08.2017                                | Rs. 29,70,141/- |

- Holding thus, the Id. CIT(A) restricted the addition to Rs. 18,95,859/- and the balance amount of Rs. 24,90,141/- is deleted.

8. Aggrieved, the assessee filed appeal before us for deletion of Rs. 18,95,859/-.

9. During the arguments, the Id. AR reiterated the submissions taken before the Id. CIT(A) which are as under:

- *"The cash found during search belongs to the family members of the appellant as well as Easy Trip Planners Pvt. Ltd., the company founded by the appellant.*
- *The details of cash belonging to the family members of the appellant and held by them as on 31.3.2017 based on the statement of affairs of the family members is as under:*

| <i>Cash in Hand as on 31.03.2017</i> |                        |
|--------------------------------------|------------------------|
| <i>Family Members</i>                |                        |
| <i>Name</i>                          | <i>Amount (in Rs.)</i> |
| <i>Anil Kumar Pitti</i>              | <i>660,023/-</i>       |
| <i>Renu Pitti</i>                    | <i>56,062/-</i>        |
| <i>Prashant Pitti</i>                | <i>5,62,445/-</i>      |
| <i>Nishant Pitti</i>                 | <i>9,88,513/-</i>      |
| <i>Rikant Pitti</i>                  | <i>11,53,098/-</i>     |
| <i>Meenal Pitti</i>                  | <i>1,65,000/-</i>      |
| <i>Sakshi Pitti</i>                  | <i>1,75,000/-</i>      |

|   |                    |
|---|--------------------|
| <i>Heena Pitti</i>  | <i>1,50,000/-</i>  |
| <i>Pitti Coal Company (Proprietor<br/>Sh. Anil Kr. Pitti)</i> | <i>60,000/-</i>    |
| <i>Total</i>  | <i>39,70,141/-</i> |

- As regards the cash belonging to the family members, it is submitted that the statement of affairs as on 31.03.2017 was filed before the A.O. during the course of block assessment proceedings in respect of family members of the appellant and no discrepancy in the statement of affairs was pointed out by the A.O in the block assessment proceedings of the family members. Copies of statement of affairs of the family members as on 31.03.2017 along with assessment order for A.Y. 2017-18 is being attached along with this letter at Page 1 to 28 to substantiate the fact that the A.O. did not draw any adverse inference in respect of cash in hand as on 31.03.2017 which was shown by family members in their respective statement of affairs as on 31.03.2017 and filed before the A.O. during the course of block assessment proceedings. The AO therefore was not justified in not accepting this submission of the appellant more so in view of the fact that the cash balances of the family members as on 31.03.2017 were verified by the AO during course of block assessment proceedings in their cases.*
- Further, the appellant is a founder director of Easy Trip Planners Pvt. Ltd. Office of the company is situated at 223 Patparganj Indl. Area, Delhi- 110092. The distance of the office from the residence of the appellant is around 2 kms. The cash of the company is kept for safety purposes at the*

*residence of the appellant since the office of the company is not very far from the residence.*

- *The company has got two divisions i.e. Travel Division and Coal Division. The balance of the cash in hand as on 10.08.2017 i.e. date of search as per books of accounts of the company is as under:-*

|   |                      |
|---|----------------------|
| <i>Easy Trip Planners Pvt. Ltd. (Travel Division)</i> | <i>Rs.2,22,375/-</i> |
| <i>Easy Trip Planners Pvt. Ltd. (Coal Division)-</i>  | <i>Rs.6,77,856/-</i> |
| <i>Total</i>  | <i>Rs.9,00,231/-</i> |

- *In this regard, a copy of cash book of the travel division as well as coal division from 01.04.2017 to 10.08.2017 is being enclosed at Page 29 to 32. A perusal of the same would show that the total cash payment transactions in respect of coal division from 01.04.2017 till 10.08.2017 were 21 which means there were on average 5 cash payment transactions in a month. As regards travel division there were 32 cash payment transactions from 01.04.2017 till 10.08.2017 average transactions per month were 8. Therefore, the appellant used to keep cash of the company at his residence and Rs. 25,000/- cash was kept at the office to meet petty expenses and when the same was finished it was recouped.*
- *In view of the submissions made above, it is submitted that the addition of cash of Rs.43,86,000/- has been explained u/s 69A is not justified since the complete reconciliation of cash of Rs.48,66,000/- found during the search from the premises of the appellant is as under:-*

|  |                        |
|--|------------------------|
| <i>Cash belonging to the family members</i>                      | <i>Rs. 39,70,141/-</i> |
| <i>Cash in hand as per books of Easy Trip Planners Pvt. Ltd.</i> | <i>Rs. 9,00,231/-</i>  |
| <i>Total</i>   | <i>Rs.48,70,372/-</i>  |

- *Since the cash found during the course of search is fully explained as given above, the addition of Rs.43,86,000/- may kindly be deleted."*

10. The Id. DR relied on the order of the Id. CIT(A).

11. Heard the arguments of both the parties and perused the material available on record.

12. The details of cash in hand as on 10.08.2017 as per the books of accounts of the company and cash in hand as per the statement of affairs filed by the family members is as under:

|   |                              |
|---|------------------------------|
| <i>Easy Trip Planners Pvt. Ltd. (Travel Division)</i> | <i>Rs.2,22,375/-</i>         |
| <i>Easy Trip Planners Pvt. Ltd. (Coal Division)-</i>  | <i>Rs.6,77,856/-</i>         |
| <i>Cash in hand of the family members</i>             | <i>Rs.39,71,140/-</i>        |
| <b><i>Total</i></b>                                   | <b><i>Rs.48,70,371/-</i></b> |

13. Hence, the argument of the Id. CIT(A) that if at all the cash is kept at residence, then the same must be kept separately and not mixed with cash of the family members cannot be accepted. Further, the estimation of expenses of Rs.10,00,000/- is also without any basis. Hence the argument put forth by the Id. CIT(A) that cash do not belong to the company and some expenses must have been incurred is not tenable and hence rejected. Owing to the availability of the

cash in the accepted books of accounts of the company as well as accepted statement affairs filed by the family members, we hold that no further addition is required on account of cash found at the premises.

14. In the result, the appeal of the assessee is allowed.  
Order Pronounced in the Open Court on 11/10/2023.

Sd/-

**(C. M. Garg)**  
**Judicial Member**

**Dated: 11/10/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**