

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: SMC: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No. 607/Del/2023  
Assessment Year: 2017-18

Chander Lekha Vashishtha, B-1/52, Pradao Multanipura, Modi Nagar, S.O., Ghaziabad, UP 201204 <b>PAN ADHPV 2051 N</b>	vs.	ITO, Ward-50(1), New Delhi
(Appellant)		(Respondent)

For Assessee:	Shri P.C Yadav, Adv.
For Revenue :	Shri Om Prakash, Sr.DR

Date of Hearing :	31.08.2023
Date of Pronouncement :	19.10.2023

**ORDER**

**PER CHANDRA MOHAN GARG, J.M.**

1. This appeal has been filed against the order of CIT(A)/NFAC, New Delhi dated 03.02.2023 for A.Y. 2017-18.
2. The Id. counsel submitted that the assessee is a senior citizen lady aged 67 years and for the relevant period she filed return of income which was selected for scrutiny and in the assessment orders u/s. 143(3) of the I.T Act 1961 (for short the 'Act'). The Assessing Officer made addition of Rs. 12,07,000/- u/s. 69A of the Act without basis and justified reason merely on his whims and fancies and by ignoring the sustainable vital evidence filed by the assessee in the form of copy of cash ledger drawn by the Chartered Accountant of assessee, reply of assessee before the Assessing Officer vide dated 19.11.2019 computation of income for AY 2017-18 and copy of order passed by the Assessing Officer u/s. 154 of the Act. The Id. counsel further drawing our attention towards submissions placed before the Id. CIT(A)/NFAC vide dated 27.01.2023 submitted that the assessee has been filing return of income for more than 20 years and the details of returned income from AY 2011-12 to 2016-17 i.e., immediately preceding seven years shows that the assessee had shown returned income of more

than Rs. 24 lakhs during immediately preceding seven years which is almost double in comparison to the cash deposited by the assessee to her bank account.

3. The Id. counsel submitted that the assessee in fact submitted copies of it is submitted that assessee has in fact given the copies of ITs starting from A.Y. 2012-13 to A.V. 2017-18 (Page.NO. 2 to 7 of the Paper-book) along with cash ledger appearing in the books of assessee w.e.f. 1.04.2011 to 01.04.2016 (at P.NO. 8 of the Paper-book) which shows balance of Rs. 12,65,933/- which amount tallied with P.NO. 10 of the Paper-book. It is also submitted that in Para 8 of assessment order, the AO has observed that assessee has not filed the ITR for the impugned year therefore none of such credits are recorded in the books. It is further submitted that this observation of the AO is incorrect in as much as the assessee has duly filed its ITR for A.Y. 2017-18 on 30.07.2017 (P.NO. 7 of the Paper-book) and the acknowledgment number of the same is given by the AO himself in the very first para of its assessment order. Therefore, he submitted that the entire gamut of the facts proves that the assessment order was passed with pre-determined mindset and thus it is not tenable in law.

4. The Id. counsel of assessee vehemently contended that the Ld. CIT (A) has also failed to controvert the cash ledger submitted by the assessee vis-a-vis opening cash balance of Rs. 12, 65,933/- on 01.04.2016. Ld. CIT(A) has arbitrarily without any basis partly allowed the appeal of the assessee to the amount of Rs. 3,07,000/- and sustained the addition of Rs. 9,00,000/-. Thus the Id. counsel lastly submits that CIT(A) erred in not appreciating the fact that Section 69A has no application to the facts of this case as assessee has duly recorded the amount in her books of account and has also filed her return of income. The Id. counsel drawing our attention towards cash ledger for FY 2011-12 to 2016-17 submitted that in the beginning of financial period there was opening balance of accumulated cash of Rs. 12,43,932/- as on 01.04.2016 out of which cash of Rs. 22,000/- was withdrawn up to 08.11.2016 and remaining amount was deposited to the bank account of assessee. The Id. counsel also submitted that the cash ledger clearly shows that the assessee has received salary income in cash up to FY 2014-15 and cash rental income till FY 2015-16 and after deducting or reducing miscellaneous household expenses the assessee had accumulated cash balance of Rs.

12,43,932/- in the beginning of financial year 2016-17 as on 01.04.2016 which cannot be doubted or disbelieved. Therefore action of the Assessing Officer in making addition u/s. 69A of the Act may kindly be set aside.

5. Further placing reliance on the judgment of Hon'ble High Court of Delhi in the case of CIT vs. Kulwant Rai reported as 291 ITR 36 (Del.) the Id. counsel submitted that when the Assessing Officer rejecting the cash flow statement submitted by the assessee on the ground that the assessee must have spend the amount withdrawn from the bank for some other purposes and no material is on record to show that money was not available with the assessee then addition cannot be held as sustainable. Also placing reliance on the order of Hon'ble High Court of Karnataka in the case of SR Vnekataratnam v. CIT 127 ITR 807 (Kar.), the Id. counsel submitted that merely because there was time gap between withdrawals and deposit of cash no addition can be made.

6. The Id. Sr. DR supported the orders of the authorities below and submitted that the assessee has failed to explain the source of cash deposit to her bank account therefore the addition was rightly made and partly upheld by the Id. CIT(A).

7. On careful consideration of above submissions, at the very outset, I note that the assessee in paper book 2 has filed copies of ITR for AY 2012-13 to 2017-18 wherein the assessee has shown substantial income. The assessee before the Id. CIT(A) submitted detailed chart of returned income from AY 2010-11 to 2016-17 wherein the assessee has declared total income of more than Rs. 24,05,080/- and copy of return for AY 2017-18 shows that the assessee has also shown income of Rs. 4,68,402/-. Therefore, during preceding seven years and present AY 2017-18 the assessee has shown total income of Rs. 28,73,482/- which is three times in comparison to the amount upheld by the Id. CIT(A) amounting to Rs. 9 lakhs. From the First Appellate Order I note that the Id. CIT(A) has granted part relief deleting the part addition of Rs. 3,07,000/- confirming the remaining part of Rs. 9 lakh but the cash flow statement and other documentary evidence shows that in the beginning financial period as on 01.04.2016 the assessee had sufficient accumulated cash in hand which was deposited during demonetization

period to her bank account. Merely, because the assessee was holding big amount of cash in her hand, the accumulation of cash from declared income, cash rental and salary income cannot be disbelieved unless the Assessing Officer establishes that the assessee had used the amount of the income accrued to her during earlier period, for some other purposes and there was no cash in hand at the time when the cash by deposited to her bank account. It is pertinent to mention that in the cash flow the assessee has also shown household expenses for her livelihood even in a situation when she is living with her family. Accordingly, I have no hesitation to hold that the Assessing Officer was not correct in making addition u/s. 69A of the Act and the Id. CIT(A) was also not justified in upholding the addition to the extent of Rs. 9 lakh ignoring the entire facts and circumstances, cash flow statement and income shown and returned by the assessee during immediately preceding seven years and for present AY 2017-18.

8. Therefore, the sole grievance of assessee is allowed and Assessing Officer is directed to delete the addition of Rs. 9 lakh as upheld by the Id. CIT(A).

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 19.10.2023.

Sd/-  
(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Dated: 19<sup>th</sup> October, 2023.

NV/-

Copy forwarded to :

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

// By Order //

Asstt. Registrar, ITAT, New Delhi