

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.2700/Del/2019  
Assessment Year: 2011-12

<b>Rahul Rai</b> <b>C/o RRA TaxIndia, D -28,</b> <b>South Extension, Part-1,</b> <b>New Delhi</b> <b>PAN No.AGLPR9952R</b>	<b>Vs.</b>	<b>Pr. CIT</b> <b>Karnal</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Dr. Rakesh Gupta, Advocate Sh. Somil Agarwal, Advocate
Respondent by	Sh. Vivek Vardhan, Sr DR

Date of hearing:	07/11/2023
Date of Pronouncement:	10/11/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT, Karnal dated 31.01.2019 dated 31.01.2019 pertaining to A.Y. 2011-12.

2. The grievance of the assessee read as under :-

*1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of 14. AD in*

*making aggregate addition of Rs.7.11,000 by treating it as alleged income of assessee and that too by recording incorrect facts and findings and in violation of principles of natural justice.*

*2. That having regard to the facts and circumstances of the case, LA. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making aggregate addition of Rs.14,50,000/- on account of cash deposits in bank account and that too by recording incorrect facts and findings and in violation of principles of natural justice.*

*3. That in any case and in any view of the matter, impugned addition of Rs. 14,50,000/- is bad in law and against the facts and circumstances of the case and which leads to double addition also as the said amount has already been added in the addition of Rs.27.21,009/-*

*4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making aggregate addition of Rs.27.21,009/- on account of closing balances of personal saving bank account of the assessee and that too by recording incorrect facts and findings and in violation of principles of natural justice.*

*5. That in any case and in any view of the matter, impugned addition of Rs 27.-21.009/- is bad in law and against the facts and circumstances of the case*

6. *That in any case and in any view of the matter, assumption of jurisdiction in passing the impugned assessment order is bad in law and barred by limitation also.*

7. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234B and 234C of Income Tax Act, 1961.*

8. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.*

3. Briefly stated the facts of the case are that the original assessment was framed u/s.143(3) of the Act vide order dated 17.10.2013 which order was set aside by the Pr. CIT, Karnal u/s. 263 of the Act vide order dated 30.12.2015.

4. The impugned assessment order is pursuant to the order of the Pr. CIT u/s. 263 of the Act. The following issues were directed to be considered by the order of the Pr. CIT u/s. 263 of the Act :-

*i. That no nexus is proved in deposit the amounts of Rs.40,000/-, Rs.5,58,000/- Rs.10,000/-, Rs.30,000/-, Rs.23,000/- and Rs.50,000/- totaling Rs.7,11,000/- to the account of the assessee after making withdrawals from the account of the father of the assessee.*

ii. That no source is left with the assessee to justify the cash deposits of Rs.9 Lacs and Rs.5.50 Lacs in the HDFC Bank Ltd., on 10th & 11th of August, 2010.

iii. That interest allowed by the Yes Bank and HDFC Bank Ltd amounting to Rs.20,984/- and the same is not shown as income for the year under consideration.

iv) That closing balance of Rs.17,51,971/- and Rs.9,69,038/- in the two accounts as closing balances are not considered in the balance sheet, whereas these were business transactions and needed to be added in income of the assessee.

5. The assessee was asked to explain the source of deposit of Rs.7.11 lacs in his savings Bank account on various dates and on receiving no plausible reply addition of Rs.7.11 lacs was made which was confirmed by the CIT(A).

6. After hearing the rival representatives we have carefully perused the bank statements of Axis Bank placed at pages 8 and 9 of the paper book. The amounts considered by the AO as deposits for making the additions are in fact withdrawals from the bank account. We have carefully verified the bank entries the bank entries of Rs.40,000/-, Rs.30,000/-, Rs. 23,000, Rs.50,000/- and Rs.5,58,000/- are withdrawals made by the depositors on various dates which have been wrongly taken as deposits. After verifying the facts we do not find any merit in this addition the AO is directed to delete the addition of Rs.7.11 lacs.

7. Ground No.1 is accordingly allowed.

8. Ground No.2 relates to the addition of Rs.14.50 lacs being cash deposited in the bank accounts while scrutinizing the return with the bank statements the AO noticed the assessee has deposited cash amounting to Rs.14.50 lacs in savings bank account. The assessee was asked to explain the source of the cash deposit. On receiving no plausible reply the AO made the addition of Rs.14.50 lacs which was confirmed by the CIT(A).

9. Before us the Counsel explained the source of cash deposit as under :-

DATE	AMOUNT	PARTICULARS
01.04.2010	Rs.39,000	Cash in hand with assessee (PB 47)
27.05.2010	Rs.6,00,000	Assessee has withdrawn Rs. 6,00,000 on 27.05.2010 from his Yes Bank Account <b>(PB 6).</b>
08.06.2010	Rs. 40,000	These amount were withdrawn from the bank account of father <b>(PB 8-9)</b>
19.06.2010	Rs. 5,58,000	
21 .06.2010	Rs. 10,000	
25.06.2010	Rs. 30,000	
02.07.2010	Rs. 23,000	

14.07.2010	Rs. 50,000	from assessee's father. <b>(Covered by ground no.1 also)</b>
Total	<b>Rs. 7,11,000</b>	
23.07.2010	Rs. 1,00,000	This amount was withdrawn from the bank account of assessee (PB 3)
	<b>14,50,000</b>	

10. The Counsel also drew our attention to the bank account placed in the paper book to show the withdrawal entries. We have carefully verified the entries in the bank statements and have seen the withdrawals. This act of the assessee alongwith his father has to be judged in the light of human probabilities for the simple reason that the assessee claims that his father gifted cash after withdrawing the same from the bank account firstly the assessee is also joint holder of the said bank account in Axis Bank, therefore, it appears to be an absurd act to withdraw the amount from a joint account and deposit it in his own independent bank account. Secondly the amounts have been withdrawn in tranches then kept at home and then deposited in the bank account. This appears to be illogical in the case of a literate person operating bank accounts for his business.

11. Considering the peculiar facts we are of the considered view that the source of deposit of Rs. 7.11 lacs are not acceptable being withdrawals from another bank account. To this extent the addition is confirmed. On perusal of the bank statement of Yes

Bank at page-6 we find that the assessee has withdrawn Rs. 6 lacs on 27.05.2010 to have deposited on subsequent date i.e. 25.03.2011 which means that assessee kept the cash at home for 10 months this again is not acceptable and moreover the withdrawal was of Rs.6 lacs and the deposit is of Rs.9 lacs. The explanation is also not acceptable again for Rs. 1 lac explanation of the assessee is the same i.e. withdrawal from one account and deposit in other. We are of the considered view that withdrawals from one bank accounts then keeping the cash at home or any other place and then depositing the same in the another bank account is not only illogical but against the human probabilities.

12. Considering the facts of the case addition of Rs.14.50 lacs is confirmed. Ground No.2 is also dismissed.

13. The other ground relates to the addition of Rs.27,21,009/-, the basis of this addition is the closing balance of Yes Bank and HDFC Bank account, the AO was of the opinion that the balances were not accounted for in the balance sheet furnished by the assessee. The explanation of the assessee that these bank accounts were maintained for personal purposes and were not related to business activities, therefore, were not reflected in the balance sheet was not accepted by the AO as well as CIT(A).

14. We have carefully considered the orders of the authorities below. It may be possible that these bank account may not be

part of the business transactions of the assessee and may have been maintained for personal purposes. However, still onus is upon the assessee to explain the source of cash deposited in these bank accounts. In the interest of justice we deem it fit to restore this issue to the files of the AO and the AO is directed to decide the issue afresh after affording a reasonable and adequate opportunity of being heard to the assessee and keeping in mind the additions confirmed by us in this order which may be a valid source for the deposit.

15. Ground No.3 and other related grounds are allowed for statistical purpose.

16. In the result, the appeal of the assessee is partly allowed.

**Order pronounced in the open court on 10.11.2023.**

**Sd/-**  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

\*NEHA\*

Date:- .11.2023

**Sd/-**  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**