

**आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**RAJKOT BENCH, RAJKOT**  
(CONDUCTED THROUGH E- COURT AT AHMEDABAD)

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**  
**And**  
**MS. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 163/Rjt/2023

निर्धारण वर्ष/Asstt. Year: 2011-12

<b>Harshaben Balas</b> Block No. 26-27, Balasnagar, Timbawadi-1, Joshipura, Junagadh – 362001	<b>Tusharbhai</b>	<b>V/S</b>	<b>The Income-tax Officer</b> Ward – 3(1)(3), Rajkot
<b>PAN: AWBPB1654J</b>			
<b>(Appellant)</b>			<b>(Respondent)</b>

<b>Appellant by</b>	<b>: Shri Chetan Agarwal, AR</b>
<b>Respondent by</b>	<b>: Shri Ashish Kumar Pandey, Sr. D.R.</b>

सुनवाई की तारीख / **Date of Hearing** : **23/08/2023**

घोषणा की तारीख / **Date of Pronouncement**: **20/11/2023**

**PER WASEEM AHMED, ACCOUTANT MEMBER:**

The appeal has been preferred by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi, dated 23.03.2023 arising in the assessment order dated 27.12.2018 passed by the Assessing Officer (AO) under s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (the Act) concerning AY 2011-12.

2. The only issue raised by the assessee is that the Ld. CIT(A) erred in confirming addition of Rs. 7,79,560/- representing unexplained cash credit on protective basis.

3. The facts in brief are that the assessee in the present case is an individual and maintains the bank account in The Junagadh Commercial Co-op. Bank Ltd. There was a cash deposit in the bank account of the assessee amounting to Rs. 7,79,560/- only. On question about the source of cash deposit, the assessee submitted that she is maintaining a joint bank account with her husband. As per the assessee, all the transactions in the bank account were carried out by her husband which have been accounted in his books of account. However, the Ld. AO found that the husband of the assessee has not filed any original return of income but has filed return of income in respect to the notice issued under Section 148 of the Act. Thus, the AO proposed to make addition to the total income of the assessee by issuing a notice dated 21.12.2018 but the assessee could not make any reply in response to such notice. Therefore, the AO made addition of Rs. 7,79,560/- as unexplained cash deposit on protective basis.

4. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who has confirmed the order of the AO.

5. Being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

6. The Ld. AR before us filed a paper book running from page Nos. 1 to 13 and contended that the addition of Rs. 7,79,560/- has already been owned up by the husband of the assessee. The Ld. AR in support of assessee's contention also filed affidavit of the husband admitting that transactions in The Junagadh Commercial Co-op. Bank Ltd. were carried out by him. The copy of the affidavit is placed on record. Therefore, it was submitted by the Ld. AR that no addition is warranted in the hands of the assessee.

7. On the other hand, the Ld. DR vehemently supported the order of the authorities below.

8. We have heard the rival contentions of the parties and perused the materials available on record. Once the husband of the assessee being Shri Tusharbhai Polabhai Balas in the affidavit furnished by him has accepted that the transaction in the bank account has been carried out by him and the same has also been added by the Revenue in the total income of the assessee which is evident from the assessment order of the husband available on record, then the question of making the addition in the hands of the assessee on protective basis does not arise. This fact has not been controverted by the Ld. DR appearing on behalf of the Revenue. Accordingly, we hold that the addition on protective basis in the hands of the assessee in the given facts and circumstances of the case is not sustainable. Hence, we set aside the finding of the Ld. CIT(A) and direct the AO to delete the addition made by him.

9. In the result, appeal preferred by the assessee is allowed.

Order pronounced in Open Court on 20 -11- 2023
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Sd/-

**(MADHUMITA ROY)**  
**JUDICIAL MEMBER**

Ahmedabad: Dated 20.11.2023

Sd/-

**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**

*True Copy*

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar  
ITAT, Rajkot