

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(AGRA BENCH 'SMC' : AGRA)**

**(THROUGH VIDEO CONFERENCE)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.156/AGR/2019  
(Assessment Year : 2010-11)**

Chirag Uddin,  
28/175, Pakki Sarrai, Tajganj,  
Agra (Uttar Pradesh).

vs.

ITO 1(1)(1),  
Agra.

**(PAN : AAKPU3777G)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : None

REVENUE BY : Shri Shailendra Srivastava, Sr. DR

Date of Hearing : 06.12.2023

Date of Order : 11.12.2023

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal filed by the assessee is directed against the order of ld.

CIT (A)-1, Agra dated 31.01.2019 for the Assessment Year 2010-11.

2. Grounds of appeal taken by the assessee read as under :-

“1. That the Ld. CIT(A) has erred in facts and law while sustaining the addition for Rs.8,25,000/- made by the AO, no addition is liable to be sustained, the addition made by the AO sustained by the Ld. CIT(A) is liable to be deleted.

2. That while sustaining the addition, Ld. CIT (A) has not appreciated the facts that the aforesaid amount deposited in the

bank account belongs to appellant's Brother Nawab Uddin, with whom the assessee is joint account holder. After taking into consideration the facts that the appellant is the second joint holder with his brother and the account belongs to his brother Nawab Uddin. No addition is liable to be made in the hands of the appellant, the addition made by the AO sustained by Id. CIT (A) is liable to be deleted.”

3. Brief facts of the case are that in this case, assessment has been completed u/s 147/144 of Income-tax Act, 1961 (for short 'the Act') vide the impugned order dated 30.11.2017 determining the assessed income at Rs.9,85,000/-. On receipt of AIR information that cash of Rs.8,25,000/- had been deposited by the assessee in his bank account, preliminary inquiries were made by the AO from the assessee. Since no reply was received by him and no return of income had been filed by the assessee, he recorded the reasons for believing that taxable income had escaped assessment in this case and after obtaining sanction from the prescribed authority, a notice under section 148 was issued by him on 30.03.2017. No compliance was made by the assessee to the subsequent notices issued by the AO and so the assessee's income was assessed at Rs.9,85,000/- which comprised of unexplained income of Rs.8,25,000/-, being the aforesaid cash deposits in his bank account and additional estimated income of Rs.1,60,000/-.

4. Against the above order, assessee appealed before the Id. CIT (A). Ld. CIT (A) noted assessee's submissions that the said account was joint account with his brother and the deposits were made by the brother. Ld.

CIT (A) did not find the same convincing in absence of any material produced by the assessee. He held as under :-

“It is seen that the appellant has not filed any valid return of income and no explanation in respect of the sources of cash deposits in his OD account in Oriental Bank of Commerce was given by him to the AO. During the present proceedings, the appellant has stated that these deposits were made by his brother, the joint holder of the bank account. However, no evidence in support of the contention has been provided by the appellant. No details or proof that these deposits were sourced out of disclosed funds of the brother are on record either. Hence, under these circumstances, I am of the considered opinion that the sources of the cash deposits amounting to Rs.8,25,000/- remain unproven and therefore those have been rightly taxed in the hands of the appellant.”

5. Against the above order, assessee is in appeal before us. We have heard ld. DR for the Revenue and perused the records. None appeared on behalf of the assessee. However, there is written submissions and assessee's counsel has stated that the said account was a joint account with assessee's brother. He stated that the first name of the joint account is also of assessee's brother and has filed assessee's brother affidavit in this regard stating that assessee has not deposited that cash and the same is belonging to him.

6. After careful considering, we find that a copy of the assessee's brother affidavit is produced before us which stated that the said account was a joint account of his and younger brother and the first name was of assessee's brother and the second name is the assessee. Further, the brother of the assessee has sworn on affidavit that all the money deposit

was his and his younger brother has nothing to do with the deposits. We find that in the interest of justice, this additional evidence needs to be verified at the level of AO. Hence, we restore the file to AO and AO shall verify all these submissions and decide as per law. Needless to add, assessee should be given adequate opportunity of being heard.

7. In the result, assessee's appeal is allowed for statistical purposes.

**Order pronounced in the open court on this 11<sup>th</sup> day of December, 2023.**

**Sd/-  
(YOGESH KUMAR US)  
JUDICIAL MEMBER**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 11<sup>th</sup> day of December, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-1, Agra.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**