

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 776/Ahd/2023
Assessment Year 2017-18**

Pravinbhai Mumabhai Bharwad, 420, Bharvad Vas, Village- Kanera, Kheda-387540 PAN: AODPB2807H (Appellant)	Vs	The Income Tax Officer, Ward-3, Nodiad (Respondent)
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**Assessee by: Shri S.N. Divetia &
Shri Samir Vora, A.Rs.
Revenue by: Shri Urjit B. Shah, Sr. D.R.**

Date of hearing : 20-12-2023
Date of pronouncement : 10-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 07-08-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

“1.1 The order passed by U/s 250 passed on 07.08.2023 by NFAC (CIT(A), Delhi (for short NFAC) upholding the addition of Rs. 11,95,160/- made by A.O. is wholly illegal, unlawful and against the principles of natural justice.

2.1 The ld. NFAC has grievously erred in law and or on facts in not appreciating that there could not be compliance to the notices claimed to be issued mainly on account of failure of the previous tax consultant Shri Divyesh Jotani of Nadiad who did not inform the appellant & also did not attend/respond and the appellant being illiterate and residing in a remote village, he was unaware about the same. Thus, there was a sufficient cause for failure to comply with the notices claimed to be issued by NFAC.

3.1 The ld. NFAC has grievously erred in law and or on facts in upholding that the cash deposits to the extent of Rs. 11,95,160/- was unexplained income.

3.2 That the in the facts and circumstances of the ld. NFAC ought not to have upheld the addition of Rs. 11,95,160/-

It is, therefore, prayed that the addition of Rs. 11,95,160/- upheld by the CIT(A) may kindly be deleted.”

3. The assessee filed original return of income for assessment year 2017-18 on 30-03-2018 declaring total income at Rs. 2,65,300/- and agricultural income for the rate purpose at Rs. 4,46,240/-. The case was selected for limited scrutiny. Notice u/s. 143(2) of the Income Tax Act, 1961 was issued on 28-09-2018 which was duly served upon the assessee. All the statutory notices were also served along with questionnaire to the assessee. The assessee submitted his

online reply on 12-09-2019. During the year under consideration, the assessee made cash deposit in Union Bank of India. Therefore notice u/s. 133(6) of the Act was issued to the bank asking thereby the details regarding bank account statement, interest paid to the assessee, SBN deposit by the assessee with pay-in slip and KYC details of the assessee. In response to the said notice, the bank submitted that the said details. After verifying the bank statement, the Assessing Officer observed that the assessee deposited cash on various dates i.e. pre-demonetization period, during demonetization period and post post demonetization period. Thus, the Assessing Officer observed that the assessee made cash deposits amounting to Rs. 11,74,000/- during the financial year in this bank. After taking cognizance of the assessee's reply, the Assessing Officer made addition of Rs. 11,95,160/- as unexplained money u/s. 69A of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the assessee has sold the land and has withdrawn 31,00,000/- of the sale consideration for which the assessee has filed the details before both the authorities. The ld. A.R. further submitted that the chart

showing the assessee's cash deposit prior to pre demonetization, during the demonetization and post demonetization period itself reveals that the assessee is regularly depositing cash as the assessee is earning agricultural income. The ld. A.R. further submitted that all the evidences were ignored by the Assessing Officer as well as by the CIT(A) and therefore the addition may be deleted. As regards non attending the proceedings before the CIT(A), the ld. A.R. submitted that the same is on account of failure on the previous tax consultant who did not inform the assessee and being illiterate residing in remote village, the assessee was unaware of the same.

6. The ld. D.R. submitted that the source of the deposits were not explained by the assessee and in fact regarding the withdrawal of father's account was also not explained by the assessee. The ld. D.R. further submitted that there was no agricultural activities established by the assessee. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant materials available on record. It can be seen that the assessee is deriving agricultural income and regularly depositing cash in the bank account which can be demonstrated and affirmed

by the assessment order itself as the cash deposit was clearly mentioned on page 2 and 3 of the assessment order. The assessee has given the details about the selling of land and its consideration as well as given the details that the withdrawal from his father account was there on record. All these evidences were totally ignored by the Assessing Officer as well as the CIT(A). Hence, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 10-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 10/01/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद