

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

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No.1514/DEL/2021
[Assessment Year: 2017-18]**

Manju Goel, A-1/11, Prashant Vihar, New Delhi-110085	vs	Income Tax Officer, Ward Int. Tax-1(3)(1), Delhi-110002
PAN-AXEPG9275A		
Appellant		Respondent

Appellant by	Sh. Amit Goel, CA & Sh. Pranav Yadav, Adv.
Respondent by	Sh. Sanjay Kumar, Sr. DR

Date of Hearing	08.01.2024
Date of Pronouncement	10.01.2024

ORDER

PER SAKTIJIT DEY, VP,

This appeal by the assessee is against the order dated 26.08.2021 of the Learned Commissioner of Income Tax (Appeals)-42, Delhi for Assessment Year 2017-18.

2. The dispute in the present appeal is confined to the addition of Rs.8,95,750/- under section 69A r.w.s. 115BBE of the Income Tax Act, 1961 (hereinafter 'the Act').

3. Briefly the facts are, the assessee is a resident individual. For the assessment year under dispute, the assessee filed her

return of income on 27.03.2018, declaring income of Rs.1,78,670/-. The return of income so filed by the assessee was selected for scrutiny to examine the “cash deposit during the year and cash deposit during demonetization period”. In course of assessment proceedings, while the Assessing Officer was looking into the information available on record, noticed that in the year under consideration, the assessee had deposited an amount of Rs.70,52,849/- in cash in her NRO saving bank account maintained with Axis Bank, Pitampura Branch, Delhi. Out of which, an amount of Rs.35,83,000/- was deposited during demonetization period. Noticing this, the Assessing Officer called upon the assessee to explain the source of cash deposits both pre and post demonetization. In response to the query raised, the assessee submitted that entire cash deposits were out of earlier withdrawals. The Assessing Officer, however, was not convinced with the submission of the assessee and proceeded to add back the entire cash deposit of Rs.70,52,849/- by treating it as unexplained money u/s 69A of the Act and brought it to tax at the special rate of 60% in terms with section 115BBE of the Act.

4. The assessee contested the aforesaid addition before Learned First Appellate Authority. Being partly convinced with the submissions of the assessee, learned Commissioner of Income Tax (Appeals) sustained the addition to the extent of Rs.8,95,750/-, being 25% of the total cash deposits and deleted the balance addition.

5. We have considered rival submissions and perused the material available on record. It is evident, from the stage of assessment proceeding itself; the assessee has consistently stated that the deposits were out of earlier withdrawals. Before Ld. First Appellate Authority, the assessee, while explaining the reason for cash withdrawals, had stated that due to renovation work of the house, the cash was regularly being withdrawn. As discussed earlier, out of the total cash deposits of Rs.70,52,849/-, an amount of Rs.34,69,849/- was deposited prior to the date of demonetization and the balance amount Rs.35,83,000/- was post demonetization. Ld. First Appellate Authority has fully accepted assessee's explanation with regard to the cash deposits prior to demonetization. Even, in respect of cash deposit post demonetization, Ld. First Appellate Authority has, more or less, accepted assessee's submission of source

being from earlier withdrawals. He has also accepted that the gap between withdrawals and deposits is reasonable. Therefore, he has held that the entire cash deposits of Rs.35,83,000/- post demonetization cannot be treated as unexplained. However, merely, because the assessee did not furnish the valuation report of the house before and after renovation/repair, Ld. First Appellate Authority, on purely estimated basis, disallowed 25% of the cash deposits after demonetization. This in our view is unjustified. When Ld. First Appellate Authority has believed the assessee's version that the withdrawals were made for renovation/repair of the building and surplus withdrawals were again re-deposited only because of lack of valuation report, estimated addition cannot be made. Therefore, we are inclined to delete the addition of Rs.8,95,750/-. The Assessing Officer is directed accordingly.

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

Order was pronounced in the open court on 10/01/2024.

Sd/-

[B.R.R. KUMAR]
ACCOUNTANT MEMBER
Delhi; Dated: 10/01/2024.

Shekhar,

Sd/-

[SAKTIJIT DEY]
VICE PRESIDENT

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi