

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT  
AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.941/Bang/2023
Assessment Year: 2017-18

Sandeep Reddy Yarabaka Chenchu 1010, 26 <sup>th</sup> Main, 4 <sup>th</sup> T Block Jayanagar Bengaluru 560 041 Karnataka  <b>PAN NO.AEQPC2735J</b>	<b>Vs.</b>	DCIT Circle-7(1)(1) Bangalore
<b>ASSESSEE</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	:	Shri B.R. Sudheendra, A.R.
<b>Revenue by</b>	:	Shri Nischal B., D.R.

<b>Date of Hearing</b>	:	10.01.2024
<b>Date of Pronouncement</b>	:	10.01.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against the order of NFAC passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”) dated 6.11.2023 for the assessment year 2017-18. The assessee has raised following grounds of appeal:

1. *“The orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi under section 250 of the Act and the Income Tax Officer, Ward 2(2)(7), Bangalore under section 143(3) are bad in law and liable to be quashed.*

**Addition of unexplained cash deposits under section 69A**

2. *The learned Deputy Commissioner of Income Tax. Circle 7(1)(1) (hereinafter referred to as 'Assessing Officer for brevity) erred in making an addition of Rs.23,07,131/- under section 69A of the Income tax Act, 1961.*
3. *The Assessing Officer has failed to appreciate the fact that the cash deposits were of the amounts withdrawn by the Appellant from the*

*bank account at an earlier date and incomes reflected in books of accounts and offered to tax. Such amounts were re-deposited due to the policy of demonetization.*

4. *The learned Assessing Officer has failed to appreciate that the money deposited has been recorded in the books of the Appellant and the source of such deposit was duly explained and accordingly, has erred in invoking section 69A of the Act.*
5. *On facts and circumstances of the case and law applicable, the addition under section 69A is bad in law and is liable to be quashed in entirety.*

**Interest u/s. 234B and 234D**

6. *On facts and circumstances of the case and law applicable, consequential levy of interest under sections 234B and 234C on the tax liability on adjustment under appeal, is incorrect. The learned AO has erred in levying additional interest under sections 234B and 234C of the Act amounting to Rs. 6,08,814 and the appellant denies its liability to pay such interest.”*

**2.** Ground No.1 is too general in nature, which does not require any adjudication.

**3.** The crux of ground Nos.2 to 5 is with regard to sustaining addition of Rs.23,07,131/- u/s 69A of the Act.

**3.1** Facts of the case are that in the instant case, it was found that the assessee had deposited a sum of Rs 60,00,000/- during the demonetization period. During the course of assessment proceedings, the assessee was asked to provide details of sources of the cash deposits made during the demonetization period. In response the assessee submitted his response on E-filing portal. The AO noted that the cash balance at end of the year was at Rs. 33,07,869/- as evidenced from the return filed by the FY 2015-16. Further, the assessee claimed that Rs. 15,93,595/- was received from identifiable persons i.e renters on his property. During the course of assessment proceedings, the assessee produced confirmations only from two tenants for a sum of Rs. 3,85,800/-. In addition, it was noticed that according to the assessee's own submission, a sum of Rs.3,30,700/-

was received after the date of deposit. The assessee submitted that the cash deposit was out of cash withdrawals. The AO held that the assessee was unable to demonstrate the nexus between the cash withdrawal and the cash deposited. The AO treated opening cash balance of Rs 33,07,869/- and sum of Rs 3,85,000/- as explained and considered rest of amount of Rs 23,07,131/- as unexplained cash deposit and added the same to the income of the assessee.

**3.2** During the assessment proceedings, the ld. A.R. for the assessee submitted that the cash deposit of Rs. 60,00,000/- during the demonetization period from 09.11.2016 to 30.12.2016 was out of rented deposits and rental income received in cash. He submitted that the confirmation could not be submitted as the tenants had vacated the premises. It was also submitted that the AO did not consider the cash withdrawal. The assessee had also appended a copy of cashbook for the relevant period. In his submissions the assessee relied upon various case laws. The ld. CIT(A) after going through the submissions made by the assessee and the facts of the case had observed that the ld. AO has duly taken into consideration the cash in hand shown by the assessee. The AO has also considered the rent received against which the assessee could produce the evidence. As far as cash withdrawals are concerned the assessee has not been able to show the nexus between the cash withdrawal and the cash deposited during demonetization period. The assessee has not been able to produce any evidence with respect to rental deposits and rent having been received in cash. However, ld. CIT(A) placed reliance on the judgement of Hon'ble Supreme Court in the case of CIT Vs. Durga Prasad More reported in 82 ITR 540 and also relied on the judgement in the case of Sumati Dayal Vs. CIT reported in 214 ITR 801 by observing that the conduct of the assessee and the material on record, an inference could be reasonably drawn that the assessee's explanation as source of cash deposit during the demonetization

period is a part of cash withdrawal is afterthought and an attempt to explain the source of cash deposit during demonetization and the assessee only deposited unexplained cash to bank account due to demonetization. Against this, assessee is in appeal before us.

**3.3** The ld. A.R. submitted that assessee has been earning rental income from house property and consistently and continuously keeping huge amount of cash in hand so as to meet the unforeseen maintenance cost to be incurred by the assessee and this has been evidenced by the opening cash balance on hand of Rs.33,07,869/- as on 31.3.2016 for which the ld. AO has given due credit. However, the assessee has withdrawn continuously from bank account and kept it in hand at Rs.23,07,131/- from two bank accounts of Kotak Mahindra Bank and Citi Bank. Further, he submitted that the ld. AO has not made any exercise to disbelieve the version of assessee about redeposit of the amount out of earlier withdrawals and also ld. AO has failed to disprove that the amount withdrawn on earlier occasion was not the amount used to redeposit into assessee's bank accounts.

**3.4** On the other hand, ld. D.R. submitted that the assessee has not furnished proper sources for deposit into bank accounts and any details about how the assessee has kept the earlier withdrawals in hand without spending the same. He relied on the order of the lower authorities.

**4.** We have heard the rival submissions and perused the materials available on record. The assessee has filed the details bank accounts, showing the cash deposit and withdrawals and details of rent agreements and rental income earned by the assessee and also confirmation from certain tenants. Regarding receipt of rent by cash, confirmation is kept on record in page nos.292 to 293 worked at Rs.6,51,600/- (Rs.2,41,600/- from Manoj P. Mani & Rs.3,10,000/- from Ajit Abraham). According to the assessee, he has deposited earlier withdrawals made by assessee and amount received by the

tenants to the tune of Rs.23,07,131/- into assessee's bank accounts during the demonetization period. The assessee submitted that assessee has been regularly withdrawing the cash from the bank account on abundant caution to meet unforeseen expenses relating to the maintenance of assessee's house properties. This practice has been accepted by the Id. AO by giving credit towards opening balance of Rs.33,07,869/-. However, the Id. AO is not ready to accept the cash withdrawals available to the assessee to deposit into assessee's bank account.

**4.1** As held by Hon'ble Karnataka High Court in the case of S.R. Venkataratnam Vs. CIT cited (supra), if assessee states that earlier withdrawal is available to the assessee to redeposit the same into bank account, the credit to that amount cannot be denied without bringing any material on record to suggest that, that earlier withdrawal has been spent by the assessee for some other purpose. Same view was taken by this Tribunal in the case of Sri Krishnamurthy Narayana Murthy Vs. ITO in ITA No.2559/Bang/2019 dated 27.4.2020, wherein held as follows:

*"6. I have heard the rival submissions and perused the material on record. In this case, the Assessing Officer found that the assessee has deposited a sum of Rs.1,06,19,947 in the saving bank account with ICICI Bank. The assessee was able to give explanation to the source of an amount of Rs.86,27,558, however, the assessee has not led any evidence before the A.O. with regard to the balance amount of Rs.19,92,389. Before me, the learned AR submitted that proper opportunity has not been granted to the assessee to explain the source of deposit with the bank. Further, it was submitted that the A.O. has not agreed with the opening balance of cash available to deposit in the bank and the earlier withdrawals to redeposit in the saving bank account. The assessee filed day to day cash in hand position before me and submitted that earlier withdrawals were available with the assessee to deposit that amount and due credit to be given to such earlier withdrawals as available to deposit with bank account. According to the learned DR, the earlier withdrawals made by the assessee should not have redeposited with the bank account. The assessee submitted that the assessee withdrawn money from bank account for particular purposes, however, it was not kept idle and it was redeposited to bank account. The Assessing Officer did not accept the contention of the assessee since the assessee has not filed any fund flow statement or cash flow statement before him. However, the Assessing Officer has not examined the cash book to see that any cash balance is available with the assessee to redeposit the same in the bank account. The Assessing Officer has also not brought anything on record to show that the assessee has used the earlier withdrawals for his persons purposes and not for redeposit the same in the bank account. Therefore, it has to be presumed that the assessee has withdrawn cash and the same remains to be unutilized for one reason or the other and the cash remained*

*with the assessee and used the same to deposit in the bank account. Similar issue was considered by the Bangalore Benches of the Tribunal in case of Sri. Byarakar Manjappa Veeresh in ITA No.1723/Bang/ 2019. Th Tribunal vide order dated 30th January, 2020 remitted the issue to the file of the Assessing Officer with the following observations: -*

*'6. I have heard the rival submissions and perused the material on record. In the present case, as per AIR information reported that the assessee has deposited cash into his saving bank account with Bank of Baroda, Peenya Branch, Bangalore totaling to Rs.27,45,300. The assessee explained that Rs.10 lakh deposited with the bank was accepted the A.O. Regarding the balance amount of Rs.17,45,300, it was claimed by the assessee that the cash deposits were out of earlier withdrawals and also claimed to have agricultural income. It was the plea of the assessee that she has made withdrawals and redeposited the amount into bank account. The assessee filed day to day cash in hand position before me and submitted that earlier withdrawals were available with the assessee to deposit that amount and due credit to be given to such earlier withdrawals as available to deposit with bank account. The learned DR strongly opposed the argument of the AR and submitted that during the assessment year under consideration the assessee purchased immovable properties at No.9, Laggere village, Peenya, Bangalore at a cost of Rs.38,70,230 and the earlier withdrawals from the bank account might have been used to pay the onmoney for purchase of that property. Even otherwise, he submitted that the earlier withdrawals have been made to meet particular expenditure and not for redepositing with the bank account. The assessee's main plea is that the assessee had withdrawn huge amount from the said bank account on various dates and kept the said amount idle with the assessee and redeposited the same into the bank account. To this effect, the assessee has furnished the statement showing withdrawals and cash in hands on various dates. While completing the assessment, the Assessing Officer give credit to only Rs.10 lakh and the balance amount, he disbelieved and treated the said amount of Rs.17,45,300 as unexplained income of the assessee. The Assessing Officer has not accepted the contention of the assessee, since the assessee has not filed any fund flow position of the assessee. However, the Assessing Officer did not doubted withdrawals of cash on various dates. The Assessing Officer has also no evidence to prove that the assessee has made withdrawals on various dates for any other purposes. There is also no evidence that the assessee has used this money to deposit in any bank account of him or for his household expenses. In such circumstances, it cannot be said that the withdrawals have been utilized to redeposit with the bank of the assessee. Therefore, it has to be presumed that the assessee has withdrawn cash and the same remains to be unutilized for one reason or the other and the cash remained with the assessee. In such circumstances, due credit to be given for such withdrawals of the cash by the assessee. In my opinion, similar view was taken by the Cochin Bench of the Tribunal in the case of Sri.Mathew Philip v. ITO [ITA No.443/Coch/2019 – order dated 29.11.2019] wherein it was held as under:-*

*“10. We have heard the rival submissions and perused the material on record. In the present case, the dispute is with regard to cash deposit of Rs.32.5 lakhs into the various bank accounts of the assessee. The main plea of the assessee is that the assessee had withdrawn cash of Rs.50 lakhs on 26/09/2014. The assessee had withdrawn cash on various dates at Rs.68 lakhs as narrated in para 5 of this order.*

*10.1 These amounts were redeposited into Bank accounts on various dates as follows: 02/04/2014 Rs. 3,00,000/- 27/08/2014 Rs. 1,50,000/- 26/09/2014 Rs.50,00,000/-*

*11. The Assessing Officer has given credit of Rs.23.50 lakhs towards cash in hand for depositing it into Bank account of the assessee. The Assessing Officer treated Rs.28.5 lakhs as unexplained sources. Thus, he treated the following amounts as unexplained cash deposits of the assessee:Rs.3 lakhs Rs.1 lakh Rs.28.5 lakhs Total:Rs.32.5 lakhs 11.1 The assessee explained that during the assessment year 2012-13, the assessee had an ailment of cancer and he could not attend to business and financial matters and kept the cash withdrawn from Bank on 31/12/2013 for medical treatment and other expenses and deposited the amount in Bank only on 26/09/2014. In support of his claim, the assessee has produced discharge summary dated 06/11/2013 from Lourde Hospital, Ernakulam before AO. He has also produced CT Scan report dated 11/07/2013 which is not disputed by the lower authorities. The assessing Officer has not accepted the contention of the assessee that he has kept the cash idly in his hands on the reason that he has not filed the wealth tax return showing the cash in hand. The Assessing Officer has not doubted the withdrawal of cash. However, the fact is that the assessee has withdrawn cash of Rs.50 lakhs on 31/12/2013. There is no evidence brought on record to show that these withdrawals have been used by the assessee or deposited by the assessee in any other Bank. It cannot be said that these withdrawals made from the Bank account were used for household expenses or any other investment. In such circumstances, it cannot be disputed that the withdrawals have been used for redeposit into the Bank account of the assessee. In other words, the Assessing Officer has not disputed the existence of Bank accounts and withdrawal from the same. The earlier withdrawal of Rs.50 lakhs from the Bank account on 31/12/2013 or withdrawal from various Bank accounts on different dates is not disputed. The assessee might have kept the cash withdrawals with him and redeposited into various Bank accounts on a later date. It is quite possible that the assessee might have withdrawn the cash for some purpose but the same remains to be utilized for one reason or the other and the cash continues to be remained with him. Sometimes it*

*may also happen that the cash withdrawals from Bank accounts continues to remain as cash balance with the assessee even for many months and sometimes cash withdrawn is utilized on the same day. All these probable aspects of the matter cannot simply be ignored or brushed aside but the fact remains that the cash has been withdrawn from the Bank and that is not at all disputed. In view of this, the explanation of the assessee deserves to be accepted, unless contrary is brought on record which has not been done in this case. Considering the totality of the facts and circumstances of the case and in view of the discussions above, the cash deposits made by the assessee on various dates should be reasonably presumed that it is from earlier withdrawals made by the assessee on various dates. Accordingly, we delete the entire addition of Rs.32.5 lakhs made by the Assessing Officer.”*

*7. In view of the above, I am of the opinion that the Assessing Officer has to examine the fund flow statement of the assessee and to reexamine the issue in the interest of justice. Accordingly, I remit the issue to the file of the A.O. to give due credit towards the amount withdrawn by the assessee and kept idle and redeposited by the assessee into bank accounts.’*

*7. In view of the above order of the Tribunal in the case of Sri.Byarakar Manjappa Veeresh (supra), I am inclined to direct the Assessing Officer to give due credit to the opening balance of the year and also towards earlier withdrawals, after verifying the books of account of the assessee. With these observations, we remit the issue to the file of the Assessing Officer for fresh consideration.”*

**4.2** Further in the case of Shri Narayana Shibaroor Shibaraya Vs. ITO Ward-3(3)(3) in ITA No.684/Bang/2022 dated 23.11.2022 wherein held as under:

*“5. I have considered the rival submission. I am of the view that the explanation offered by the Assessee with regard to the source of deposit of Rs.15.00 lakhs in his bank account is satisfactory and therefore, no addition can be made on account of unexplained cash. As rightly contended by the ld.counsel for the Assessee, the withdrawal of cash from the bank account prior to deposit of cash is not disputed by the revenue. The fact that the Assessee did not explain the reasons for withdrawal of cash from his bank account cannot be the basis to hold that the source of deposit of cash was not explained by the Assessee. The legal position in this regard is that if the deposit of money in the bank account is preceded by withdrawal of money from the very same bank account, then the source of funds is prima facie demonstrated or explained by the Assessee. The Honourable Karnataka High Court in the case of S.R.Ventakaratnam Vs CIT, Karnataka-I & Others 127 ITR 807 has held that once the Assessee discloses the source as having come from the withdrawals made on a given date from a given bank, it was not open to the revenue to examine as to what the Assessee did with that*

*money and cannot chose to disbelieve the plea of the Assessee merely on the surmise that it would not be probable for the Assessee to keep the money unutilized. The decision of the Hon'ble Karnataka High Court supports the plea of the assessee. It is seen that the cash deposits in the bank account are preceded by withdrawal from the very same bank account. I am of the view that the ratio laid down in the aforesaid judgment will apply to the facts of the present case. If the revenue wants to disbelieve the plea of the Assessee then it must show that the previous withdrawal of cash would not have been available with the Assessee on the date of deposit of cash in the bank account. The AO and CIT(A) have proceeded purely on assumption and surmises that cash withdrawn was not available to the Assessee on completely extraneous factors. In our view, the Assessee has satisfactorily explained the source of funds out of which deposit of cash was made in the bank account. I therefore delete the addition made in this regard.*

*Consequently, the appeal of the Assessee is allowed.*

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

**4.3** Similar view was taken by this Tribunal in the case of Shri Girigowda Dasegowda Vs. ITO Ward 2(2)(8) in ITA No.360/Bang/2022 dated 10.8.2022 wherein held as under:

*“9. I have carefully considered the rival submission. The Hon'ble Karnataka High Court in the case of Smt. P. Padmavathy (supra) clearly laid down that earlier withdrawals of cash from Bank account have to be accepted as available to an assessee to explain a later deposit as source. The Hon'ble Court held that it was not open to the Revenue to contend that the assessee has to explain as to how the cash withdrawn earlier was utilized by an assessee and was still available with the assessee. The decisions cited by the learned DR are contrary to the law laid down by the Hon'ble Karnataka High Court and therefore not binding. I, therefore, hold the past withdrawals as claimed by the assessee from 2013 should be considered as being available to the assessee to explain the source of deposit. We are also of the view that a reasonable quantum of cash available out of past savings should also be considered as being available to the assessee to explain the source of cash deposited in the bank account.”*

*10. I, therefore, set aside the order of the CIT(A) and remand the case to the AO to consider the issue denovo in the light of the observations as made above.*

*11. The appeal of the assessee is accordingly treated as allowed for statistical purposes.*

*12. In the result, appeal of the assessee is allowed for statistical purposes.”*

**4.4** Further, Tribunal in the case of Nallapeta Anjiahsetty Jayaram in ITA No.853/Bang/2023 and others dated 3.1.2024 wherein the assessee deposited a sum of Rs.1,07,95,803/- into his SB account with ING Vysya Bank and took a plea that this has been made out of opening cash balance of Rs.18,96,800/- and cash withdrawal of Rs.89,42,200/- and this plea of the assessee has been accepted by the Tribunal and observed that assessee has to get due credit towards opening cash balance of Rs.18,96,800/- on earlier occasion withdrawal from account of Rs.89,42,200/- which works out to Rs.1,08,39,600/- i.e. more than the amount deposited into bank account of Rs.1,07,95,803/- and deleted the addition.

**4.5** Further, the Coordinate Bench of Bangalore (SMC) in the case of Shri Kamal Kothari in ITA No.741/Bang/2023 dated 23.11.2023 wherein held as under:

7. *I have heard the rival submissions and perused the material on record. Assessee is residing in Channapatna, a small town. The reason stated for withdrawal of huge cash was to purchase agricultural land near Channapatna and since the purchase did not materialize, cash withdrawn was redeposited during the demonetization period. The reason for withdrawal and redeposit of cash in learned AR's written submissions are reproduced below for ready reference:*

*"11. The appellant is in Channapatna, a small town. The appellant was interested in buying of agricultural lands in and near Channapatna. The agricultural land are owned by agriculturist who are rural based. Moreover, in villages, banking facilities are not available. To buy lands one needs to visit the location of agricultural land and if found fit for purchase, negotiation take place with the land owner for acquisition and at price at which land could be purchased. The transaction is not instantaneous and each settlement of transactions requires quite a few visits and negotiation. Further, once the land is found fit to be purchased it becomes impudent to have a grip on transactions by paying some advance money to the land owner. With this in view a sum of Rs. 15 lakhs was drawn on 17.06.2016 and on the visit to sites it came to light that for the prevalent rates some more money may be required, Hence further sums of Rs. 7 lakhs & 8 lakhs were drawn on 23.06.2016 & 11.07.2016 respectively. Thereafter quite a few attempts were made to finalise the property but no deal materialized. Therefore, since the deed could not go through a sum*

*of Rs. 10 lakhs were deposited in bank on 26.07.2016 retaining the balance cash for further attempt for acquisition of property.*

*12. However, on 08.11.2016, the demonetization was announced and therefore immediately balance cash, a sum of Rs. 21 lakhs were deposited on 23.11.2016.”*

8. *The above reasoning of the assessee for withdrawal of cash and redeposit during the demonetization period cannot be brushed aside as totally false. What is necessary to be examined is whether there is adequate cash withdrawal within a reasonable period prior to the demonetization period and whether the same has been utilized for some other investment (other than redeposit). The admitted fact is that assessee has withdrawn a sum of Rs.32 lakhs on the below dates which has not been disputed by the AO:*

<i>Date</i>	<i>Cash Withdrawn</i>	<i>Name of the Bank</i>
<i>17/06/16</i>	<i>15,00,000</i>	<i>State Bank of India, Channapatna, branch SB A/c. No. 64107664658</i>
<i>23/06/16</i>	<i>7,00,000</i>	<i>State Bank of India, Channapatna. branch SB A/c. No. 64107664658</i>
<i>11/07/16</i>	<i>8,00,000</i>	<i>State Bank of India, Channapatna. branch SB A/c. No. 64107664658</i>
<i>28/07/16</i>	<i>2,00,000</i>	<i>State Bank of India. Channapatna. branch SB A/c. No. 64 1 07664658</i>
<b><i>Total</i></b>	<b><i>32,00,000</i></b>	

9. *Out of the cash withdrawn of Rs.32 lakhs, a sum of Rs.10 lakhs was redeposited on 26.07.2016. Therefore, a sum of Rs.21 lakhs was available for deposit during the demonetization period. The AO disbelieved the source of cash deposit by holding that cash withdrawn in instalment by assessee was to cater to some other requirement / obligation. This statement of the AO is without any evidence and is merely based on conjectures and surmises. A bold allegation without any proof cannot be basis for any allegation. There is nothing in law which prohibits holding of cash in hand. The various reasons of the AO for making the addition under section 69A of the Act are extracted supra (refer para 3 above). However, the AO has failed to consider the following facts:*

- a) *That immediately after demonetisation period there was heavy rush in banks, the matter was not fully clear and bankers were refusing to accept huge cash as deposits due the fact that they had to cater to general public first.*
- b) *The amount received from Sri. Rabulal Kothari was not a loan but the receipt of amount given to him earlier. The party had returned the money and the same was deposited in bank account.*

- c) *The assessee had maintained regular cash books and books of accounts has not been rejected.*
- d) *There is no bar on withdrawing cash even if there is sufficient cash balance available.*
- e) *The assessee with a view to acquire a property was trying to locate property on the village side and the villagers who would have to give a valuable asset like immovable property would like to deal in cash.*
- f) *AO does not have any iota of an evidence to state / prove that the appellant has used the money for some other clandestine purposes. A bold allegation without any evidence / proof cannot be made in assessment order and such allegation cannot be the basis for making addition to returned income.*
10. *To sum up, I hold that source for cash deposits of Rs.21 lakhs is out of available cash balance as on 08.11.2016. As per the statement above, it is clear that a sum of Rs.32 lakhs was withdrawn on 17.06.2016, 23.06.2016, 11.07.2016 and 28.07.2016 from the State Bank of India, Channapatna Branch. The same was not utilized and the cash was lying with the assessee. The AO has not proved that cash withdrawn by assessee has not been utilized for some other purpose. In other words, the assessee cannot be expected to prove the negative that he had not utilized the cash withdrawal for some other purpose. It was the actual cash in hand lying with the assessee which was subsequently deposited in bank account. As explained above, the source of cash deposit is out of cash in hand available with the assessee which was withdrawn from the bank. The cash withdrawn from bank remained unutilized and was deposited in the bank again. Further, as mentioned earlier, the AO has not brought on record any material to show the utilization of cash withdrawn was for purpose other than the amount deposited in the bank account.*
11. *On similar facts and circumstances of the case, the Bangalore Bench of Tribunal in the case of Shri Dhruva Mungamuri Vs. ITO, Ward - 5(3)(5), Bengaluru in ITA No.2668/Bang/2019 for Assessment Year 2013-14 (order dated 19.02.2020), had held as follows:*

*“5. I have heard the rival submissions and perused the material on record. In the present case, the assessee has deposited a sum of Rs.25.47 lakh into assessee’s bank account with SBI Indiranagar Branch and ICICI Bank. Schedule of the transactions made with the said banks from 09.06.2012 to 03.11.2012 is as follows:-*

<b>Bank Name</b>	<b>Account No.</b>	<b>Date</b>	<b>Amount withdrawn</b>	<b>Amount deposited</b>
SBI	10447408042	09.06.2012	2,50,000	--
SBI	10447408042	10.06.2012	4,10,000	--
SBI	10447408042	27.06.2012	--	4,67,000
SBI	10447408042	26.07.2012	4,50,000	--

SBI	10447408042	14.08.2012	3,50,000	--
ICICI	16901006061	14.08.2012	11,00,000	--
ICICI	16901006061	08.09.2012	2,00,000	--
SBI	10447408042	10.10.2012	8,00,000	--
ICICI	16901509902	03.11.2012	--	20,00,000

*The CIT(A) accepted only a sum of Rs.10.70 lakh as available to the assessee to redeposit into the bank account and for the balance amount of Rs.10.10 lakh, he confirmed the addition. It was the plea of the assessee that the assessee has withdrawn the money for the admission of his son in a medical college, for which the assessee has also produced evidence like copies of admission letter, demand draft etc. before the CIT(A). Thus, it was explained by the assessee that the amount was withdrawn for the admission of his son in a medical college. Since the admission was not materialized, the assessee has redeposited the amount to the bank. These facts were not disputed by the department. However, according to the CIT(A), the withdrawals were made in June 2012 and the assessee has deposited the same into the bank account in November 2012. There was a longtime gap ranging from June to November, the CIT(A) has given relief only to the extent of Rs.10.70 lakh. However, the department has no material to show that the earlier withdrawals made by the assessee has been spent for any specific purposes and not the said amount available with the assessee to redeposit into the bank account. There is also no evidence that the assessee has made withdrawals on various dates for any other purposes than the admission of assessee's son in a medical college. In such circumstances, it cannot be said that the withdrawals have not been utilized to redeposit with the bank account. Therefore, it has to be presumed that the assessee has withdrawn the cash and the same remained to be unutilized for one reason or the other, and the cash remained with the assessee. In such circumstances, due credit has to be given for such withdrawal of cash by the assessee. In my opinion, In my opinion, similar view was taken by the Cochin Bench of the Tribunal in the case of Sri.Mathew Philip v. ITO [ITA No.443/Coch/2019 – order dated 29.11.2019] wherein it was held as under:-*

*“10. We have heard the rival submissions and perused the material on record. In the present case, the dispute is with regard to cash deposit of Rs.32.5 lakhs into the various bank accounts of the assessee. The main plea of the assessee is that the assessee had withdrawn cash of Rs.50 lakhs on 26/09/2014. The assessee had withdrawn cash on various dates at Rs.68 lakhs as narrated in para 5 of this order. 10.1 These amounts were redeposited into Bank accounts on various dates as follows: 02/04/2014 Rs. 3,00,000/- 27/08/2014 Rs. 1,50,000/- 26/09/2014 Rs.50,00,000/-*

11. *The Assessing Officer has given credit of Rs.23.50 lakhs towards cash in hand for depositing it into Bank account of the assessee. The Assessing Officer treated Rs.28.5 lakhs as unexplained sources. Thus, he treated the following amounts as unexplained cash deposits of the assessee: Rs. 3 lakhs Rs. 1 lakh Rs.28.5 lakhs Total: Rs.32.5 lakhs 11.1 The assessee explained that during the assessment year 2012-13, the assessee had an ailment of cancer and he could not attend to business and financial matters and kept the cash withdrawn from Bank on 31/12/2013 for medical treatment and other expenses and deposited the amount in Bank only on 26/09/2014. In support of his claim, the assessee has produced discharge summary dated 06/11/2013 from Lourde Hospital, Ernakulam before AO. He has also produced CT Scan report dated 11/07/2013 which is not disputed by the lower authorities. The Assessing Officer has not accepted the contention of the assessee that he has kept the cash idly in his hands on the reason that he has not filed the wealth tax return showing the cash in hand. The Assessing Officer has not doubted the withdrawal of cash. However, the fact is that the assessee has withdrawn cash of Rs.50 lakhs on 31/12/2013. There is no evidence brought on record to show that these withdrawals have been used by the assessee or deposited by the assessee in any other Bank. It cannot be said that these withdrawals made from the Bank account were used for household expenses or any other investment. In such circumstances, it cannot be disputed that the withdrawals have been used for redeposit into the Bank account of the assessee. In other words, the Assessing Officer has not disputed the existence of Bank accounts and withdrawal from the same. The earlier withdrawal of Rs.50 lakhs from the Bank account on 31/12/2013 or withdrawal from various Bank accounts on different dates is not disputed. The assessee might have kept the cash withdrawals with him and redeposited into various Bank accounts on a later date. It is quite possible that the assessee might have withdrawn the cash for some purpose but the same remains to be utilized for one reason or the other and the cash continues to be remained with him. Sometimes it may also happen that the cash withdrawals from Bank accounts continues to remain as cash balance with the assessee even for many months and sometimes cash withdrawn is utilized on the same day. All these probable aspects of the matter cannot simply be ignored or brushed aside but the fact remains that the cash has been withdrawn from the Bank and that is not at all disputed. In view of this, the explanation of the assessee deserves to be accepted, unless contrary is brought on record which has not been done in this case. Considering the totality of the facts and circumstances of the case and in view of the discussions above, the cash deposits made by the assessee on various dates should be reasonably presumed that it is from earlier withdrawals made by the assessee on various dates. Accordingly, we delete the entire addition of Rs.32.5 lakhs made by the Assessing Officer.”*

*5.2 In view of the above, I am inclined to delete the impugned addition.”*

*12. In view of the aforesaid reasoning, I hold that the source of cash deposit is adequately explained and there are enough cash withdrawals to cover the same. Hence, the addition under section 69A is hereby deleted.”*

**4.5** Considering the facts of present case in the light of judgement of Hon’ble Karnataka High Court judgement cited (supra), we are of the opinion that assessee has to get due credit towards the cash withdrawals made by assessee and also rental income collected by assessee in the form of cash to deposit the said amount to assessee’s bank account. Accordingly, we delete the addition made towards unexplained cash deposit made into assessee’s bank account on various dates during the demonetization period. This ground of assessee is allowed.

**5.** In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 10<sup>th</sup> Jan, 2024

**Sd/-**  
**(George George K.)**  
**Vice President**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 10<sup>th</sup> Jan, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**