

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA R. KAMBLE, JUDICIAL MEMBER

**ITA No. 955/Ahd/2023
Assessment Year: 2017-18**

Kamlaben Soni, Legal Heir of Late Naginbhai Soni, C/o. Samir Soni, B/h. Shak Market, MG Road, Dahod, Gujarat PAN : AOXPS 7675 G	Vs	Income Tax Officer, Ward-1, Dahod
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri B.T. Thakkar, AR
Revenue by :		Ms. Saumya Pandey Jain, Sr DR

सुनवाई की तारीख/Date of Hearing : 04/01/2024
घोषणा की तारीख /Date of Pronouncement : 17/01/2024

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" for short] dated 23.10.2023 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Assessment Year 2017-18.

2. The Grounds of appeal are as under :-

- "1. The grounds of appeal mentioned hereunder are without prejudice to each other.*
- 2. The assessment order under appeal is bad in law and deserves to be quashed.*
- 3. Grounds of Appeals as enumerated as below:-*

<i>Particulars against which Appeal preferred</i>	<i>Amount (Rs.)</i>	<i>Ground of Appeal</i>
<i>Unexplained Cash Deposit in Bank during demonetization period added under section 69A.</i>	<i>19,49,743</i>	<i>The said addition is bad in law and deserves to be quashed.</i>
<i>Total Rs.</i>	<i>19,49,743</i>	

4. The assessment order under appeal was passed u/s. 143 (3) of the I. Tax Act. In fact and in circumstances of the case Ld. A.O. has erred in initiating penalty proceedings u/s 274 r.w.s 271AAC(1) of the Income Tax Act, 1961. Since the Assessment Order is bad in Law consequently initiation of penal proceedings deserves to be quashed.

5. The learned A.O. and the Hon'ble National Faceless Appeal Centre, Delhi grievously erred in law and on facts in under taking/confirming assessment proceedings and making the assessment u/s 143(3)."

3. Return of Income was filed on 27.03.2018 declaring total income of Rs.3,83,330/- after claiming the deduction of Rs. 1,26,553/- under Chapter VI-A of the Act by the assessee. The case was selected for Limited Scrutiny and notice u/s 143(2) of the Income Tax Act, 1961 was issued on 09.08.2018 and duly served upon the assessee. Subsequently, notice u/s 142(1) of the Act was also issued and served but the assessee did not file the response or details. The Assessing Officer observed that during the year under consideration the assessee has shown income from other sources. The Assessing Officer further observed that the assessee deposited cash of Rs.9,00,000/- in his bank account of State Bank of India and Rs. 5,00,000/- in different account of the same bank as well as deposited Rs.5,49,743/- in the Dahod Urban Co-op Bank Ltd. (Total amount is Rs. 19,49,743/-) during the demonetization period i.e. 09.11.2016 to 30.12.2016. The source of the same remained unexplained as observed by the Assessing Officer. After receiving the Show Cause Notice dated 11.12.2019, the Legal Heir of the assessee filed the response. After taking cognizance of the same, the Assessing Officer made addition of Rs. 19,49,743/- as unexplained cash deposits u/s 69A of the Act and assessed the said income to tax u/s 115BBE of the Act at the rate of 60%.

4. Being aggrieved by the Assessment Order, the legal heir of the assessee filed the appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the assessee was an individual and retired employee of BSNL who derived the income from Pension-salary income and interest income. The assessee had given guarantee to a bank for loan borrowed by his relative and the borrower incurred huge loss and unable to pay the said loan. The assessee received notice for recovery from the bank as he was a guarantor. Therefore, the assessee due to the fear of bank recovery from his account, withdrawn the amount from the said accounts and kept cash in hand. But during the demonetization period the currency notes were deposited. Besides this the assessee also deposited the amount which was there in hand with the wife of the assessee as well as pension

received in cash. The assessee gave the details of the same to both the authorities but the same was totally ignored by the CIT(A).

5. The Ld. DR relied upon the assessment order and the order of the CIT(A). The Ld. DR further submitted that the cash in hand was huge amount and the same was rightly added by the Assessing Officer as unexplained cash deposits.

6. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the details filed before the CIT(A) regarding the bank statements clearly indicates that the assessee has withdrawn the amount during the period of November, 2014 till April, 2015 from the three accounts held in the banks mentioned by the Assessing Officer. This explanation for Rs. 13,61,000/- is justified by the assessee. Besides this, the cash in hand regarding the Pension received in cash in A.Y. 2014-15 and 2015-16, April till October was also on record which amounts to Rs.7,39,000/-. The wife of the assessee also had cash in hand of Rs.2,10,000/-. Therefore, all the cash in hand which was deposited during the demonetization period was explained by the assessee during the assessment proceedings as well as before the CIT(A). The Assessing Officer as well as the CIT(A) ignored these details filed by the assessee. Therefore, appeal of the assessee is allowed.

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

Order pronounced in the open Court on this 17th day of January, 2024.

Sd/-

(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 17th day of January, 2024

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Copies to:	(1) The appellant	(2) The respondent
	(3) CIT	(4) CIT(A)
	(5) Departmental Representative	(6) Guard File

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad