

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 1958/Del/2023

(Assessment Year: 2019-20)

M/s. Reliance Ritu Kumar Pvt. Ltd, (earlier known as Ritika Pvt. Ltd) B-38, Sagar Apartment, 6 Tilak Marg, New Delhi (Appellant)	Vs. ACIT, Central Circle-4, Delhi (Respondent)
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PAN:AABCR5510N

Assessee by :	Shri Ved Jain, Adv Ms. Supriya Mehta, CA
Revenue by:	Shri Mukesh Kumar Jha, CIT DR
Date of Hearing	13/02/2024
Date of pronouncement	16/02/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1958/Del/2023 for AY 2019-20, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-23, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. CIT(A), Delhi-23/10529/2018-19 dated 10.05.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 11.04.2021 by the Assessing Officer, ACIT, Central Circle-4, Delhi (hereinafter referred to as 'Id. AO').
2. Though the assessee has raised several grounds of appeal, the only effective issue to be decided in this appeal is as to whether the Id CIT(A) was justified in treating the cash seized of Rs. 13 lakhs as unexplained money u/s 69A read with Section 115BBE of the Act in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. A search and seizure action u/s 132 of the Act was carried out in "Ritika Pvt. Ltd" (RPL) group and associates on 29.05.2018. During the course of search and seizure action at the premises 260, Udyog Vihar, Phase-I, Gurgaon, cash amounting to Rs. 21,26,180/- was found out of which cash amounting to Rs. 13 lakhs was seized from the premises. The assessee was requested to provide explanation of source of cash found with the supporting documents. The assessee in response to the query stated that company's Kolkata office had transferred cash of Rs. 13 lakhs to company's Gurgaon office in the form of inter branch transfer. In fact during the search itself Mr. Nikhil Batra (GM Finance & Accounts) of M/s. Ritika Pvt. Ltd was confronted by the search team with regard to cash of Rs. 13 lakhs which was seized. He responded that Rs. 13 lakhs was received as inter branch transfer from Kolkata Office in the month of February or March 2018 and the said cash was handed over to him by Mr. Suresh Chander Kumar. He also stated that he was not aware as to who brought cash from Kolkata and how the same was transported from Kolkata to Gurgaon. The Id AO however while framing the assessment for the year under consideration did not heed to the contention of the assessee and proceeded to treat the seized cash of Rs. 13 lakhs as unexplained money u/s 69A read with Section 115BBE of the Act and added the same to the total income of the assessee. This action of the Id AO was upheld by the Id CIT(A) on the ground that the assessee was not able to explain either during the course of search or during the course of assessment proceedings as to how the cash had actually travelled from Kolkata to Gurgaon and who carried the same.

4. We find that the assessee had duly furnished the cash reconciliation statement before the lower authorities as under:-

"Reconciliation statement of cash balance as per books and as found by Investigation team during search on 29.05.2018 from 260, Udvog Vihar, Phase 1, Gurgaon"

<i>Particulars</i>	<i>Amount (in Rs.)</i>
<i>Balance of cash on 29.05.2018 in the books of the assessee:</i>	
<i>Balance of cash on 29.05.2018 as per cash book at Gurgaon branch (domestic unit)</i>	2,80,788
<i>Balance of cash on 29.05.2018 as per cash book at Gurgaon branch (Export unit)</i>	2,08,935
<i>Balance of cash on 29.05.2018 as per petty cash ledger</i>	4,39,235
<i>Total</i>	9,28,958
<i>Less: Cheque issued for withdrawing cash from Yes Bank and entered in books on 28.05.2018 but cash was actually drawn from bank on 02.06.2018</i>	(1,00,000)
<i>Total</i>	8,28,958
<i>Add: Cash transferred from Kolkata branch</i>	13,00,000
<i>Total</i>	21,28,958
<i>Less: Miscellaneous petty expenses</i>	(2,778)
<u>Cash found during search which is substantiated from the statement of Nihal Batra</u>	<u>21,26,180</u>

5. The assessee right from the time of search had given impromptu statement that cash balance of the assessee company as a whole remains the same after the inter branch transfer of cash of Rs 13 lakhs from Kolkata to Gurgaon. Further, we find that from pages 206 to 241 of the Paper Book containing the extract of the cash book of Kolkata Branch that a sum of Rs. 24,14,872.24 was available as cash balance as on 28.05.2018 with Kolkata Branch of the assessee, and that the cash transferred of Rs. 13 lakhs was duly entered in the books of Kolkata Branch on 02.06.2018 which is evident from page 241 of the Paper Book. In fact on 02.06.2018, the narration very clearly depicts that the cash is transferred to Gurgaon location from Kolkata location. Similarly, corresponding entries were posted in the cash book at Gurgaon location on 02.06.2018 showing receipt of cash from Kolkata Branch by the Gurgaon Branch. Though, the cash has been transferred prior to the date of search on 29.05.2018, the same was only recorded with a delay of 4 days in the books of respective branches. Either way, the company as a whole did have sufficient cash balance to explain the seized cash of Rs.

13 lakhs on 29.05.2018. We find that there was no negative cash balance on any given day during the year. Admittedly, the cash book submitted by the assessee has not been rejected by the revenue. Hence, there is absolutely no case for the revenue to treat the cash seized of Rs. 13 lakhs as unexplained money warranting addition u/s 69A of the Act. accordingly, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 16/02/2024.

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:16/02/2024

A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi