

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.3265/DEL/2023
[Assessment Year: 2017-18]**

G A Advisory Private Limited B-5, Oriental House, Commercial Complex, Gulmohar Enclave, New Delhi-110049	Vs	ACIT, Circle-10(1), C.R. Building, ITO, I.P. Estate, New Delhi-110002
PAN: AAECG9331R		
Assessee		Revenue

Assessee by	Shri I.P. Bansal, Adv. and Shri Vivek Bansal, Adv.
Revenue by	Shri Vivek Kumar Upadhyaya, Sr. DR

Date of Hearing	15.02.2024
Date of Pronouncement	04.03.2024

ORDER

PER AMIT SHUKLA, JM,

The aforesaid appeal filed by the assessee is against the order dated 25.10.2023 passed by National Faceless Appeal Centre (NFAC), Delhi, for quantum of assessment passed under section 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') for Assessment Year 2017-18.

2. In various grounds of appeal, the assessee has challenged the addition of Rs.28 lakhs on account of cash deposits made in the bank account, which has been taxed u/s. 115BBE of the Act.

3. Brief facts of the case are that the assessee company is a private limited company, engaged in valuation of tangible and intangible assets of different clients including Government & semi Government clients and the accounts of the assessee are regularly maintained and are audited as per statutory provisions.

4. It is seen that the assessee had declared income of Rs.55,15,180/- on the basis of books of accounts maintained in regular of business, which were also subject to audit. The Assessing Officer noted that the assessee has deposited Rs. 28 lakhs in the bank accounts on 19.11.2016, i.e., during the period from 09.11.2016 to 13.12.2016. The AO required the assessee to file further details by way of notice dated 02.12.2019 issued u/s 142(1) of the Act.

5. In response, the assessee submitted that cash of Rs.28 lakhs was deposited on 19.11.2016 out of cash withdrawn from ICICI Bank from 03.09.2016 to 04.11.2016 and in support; the assessee also filed bank statement of ICICI bank. Accordingly, the source of cash was out of own money withdrawn from the bank account.

6. Before us, the details regarding date wise cash withdrawal and deposits were as under:-

Date	Cheque no.	Cr/Dr	Description	Amount
Details of Cash Withdrawals				
03.09.2016	37366	Dr	Cash Withdrawal	9,00,000
03.10.2016	8103	Dr	Cash Withdrawal	9,00,000
25.10.2016	8115	Dr	Cash Withdrawal	9,00,000
04.11.2016	8118	Dr	Cash Withdrawal	1,00,000
Total				28,00,000
Details of Cash Deposits				
19.11.2016		Cr	Cash Deposits	28,00,000
Total				28,00,000

7. The Assessing Officer during the course of assessment proceedings issued the summons dated 22.11.2019, whereby statement of Shri Sachin Garg Director of the company was recorded which has been reproduced in the assessment order. For the sake of ready reference, following question and answers from the statement as recorded by the Assessing Officer are as under:-

“Q.11 Please provide the details of all the bank accounts held by the company during FY 2016-17.

Ans. The bank account maintained by the company during FY 2016-17 are:-

(iii) A/c no 114305000071 at ICICI Bank.

(iv) A/c No. 60277709467 at Bank of Maharashtra.

Q.12 Please provide the source of such high cash i.e. Rs. 28,00,000/- in hand as on 08.11.2016, which was deposited in the bank accounts during demonetization period, however, you have received cash for sales at Rs. 17,250/- only?

Ans. The source of cash in hand was withdrawal of same amount i.e. Rs. 28,00,000/- from 03.09.2016 to 04.11.2016 in four transactions (all from ICICI Bank bearing A/c no 114305000071).

Q.13 Please provide the purpose of huge cash withdrawal from current account.

Ans. The assessee is engaged in the profession of valuation and provides services to department of disinvestment, Ministry of Finance, Government of India-Enterprises and financial Institutes. In course of its profession, the assessee wanted to purchase the capital assets (mixed use plot for use of residential/office/guest house) on outright basis for which a total of Rs. 28,00,000/- were withdrawn between 3rd September 2016 to 4th November 2016. The cash withdrawn was kept in imprest as loan approval from ICICI Bank was awaited; loan approval was received on 11.11.2016. However, due to demonetization on 08.11.2016, the idea to purchase capital assets was dropped and the cash was deposited in the bank on 19.11.2016.

Q.14 Please justify the cash withdrawal in installments which is since September 2016 i.e. two months prior to loan sanctioned date.

Ans. The money was withdrawn in installments due to ease of carry and holding. Further, the money was withdrawn earlier to give token money the moment the property is identified and complete the transaction after loan approval.

Q.15. Please justify as the money was deposited during demonetization period was the same money which was withdrawn between 03.09.2016 and 04.11.2016 from ICICI Bank.

Ans. As there was no other source of cash such as cash sale/receipt, the money deposited during demonetization period was the same money which was withdrawn between 03.09.2016 and 04.11.2016 from ICICI Bank.

Q.16 Please provide the sanction letter of loan approved by the ICICI Bank.

Ans. I am submitting the same before your good-self.”

8. Therefore, again the Assessing Officer issued a show-cause notice as sources and funds are not incorporated. The assessee

again reiterated that the same and the same were out of withdrawal made by the ICICI bank. The assessee also submitted that the assessee was searching for a property for purchase and he also placed a copy of loan document dated 11.11.2016, which was a principal approval though without mentioning of specific property. Since, the assessee had withdrawn cash at that time purchase of property which could not be materialized. Therefore, post demonetization, the assessee has deposited the same amount. However, the Assessing Officer did not accept the submission of the assessee and added Rs.28 lakhs u/s 68 of the Act.

9. The learned CIT(A), on analysis of withdrawn cash and cash deposits in the bank account of the assessee for FYs 2015-16, 2016-17 and 2017-18 revealed that the assessee has never deposited any significant amount of cash in the bank account during any other period except during the demonetization period and business model of the assessee revealed that no receipts are received in cash by the assessee and no significant payments have been made in cash. The assessee failed to furnish necessary documentary evidence such as the details of the property which the assessee intended to purchase, copy of the relevant agreement/proof of the evidence of any discussion with the party(name, PAN and address) and thus, the explanation of the assessee that the source of cash deposits was

cash withdrawal prior to demonetization period and that the purpose of such huge cash withdrawals was for the purpose of purchasing a property cannot be accepted and the assessee was provided with sufficient opportunity and even during the course of appellate proceedings the assessee has failed to rebut the findings of the AO, therefore, the addition made by the AO did not warrant interference of appellate authority. In this manner the appeal of the assessee has been dismissed by the Ld. CIT (A) of NFAC.

10. After hearing both the parties on perusal of materials on record placed before us in the paper book, we find that the assessee had shown cash withdrawals from its bank account which remains part of cash-in-hand of the assessee in the books. Since, it is a corporate entity and therefore, it had maintained regular books of accounts in regular course, wherein, the assessee has disclosed the cash withdrawals and the cash in hand in the regular books of accounts. The assessee has explained the source of cash deposits from out of cash in hand representing earlier cash withdrawals two months ago for which the assessee had adduced sufficient evidence. Even though, the assessee might have given the statement that cash withdrawal was for the purpose of buying a property, however, the fact remains that even if the explanation is plausible or not but fact of the matter is that, once there is cash withdrawal and cash in

hand has been declared in the books, and if post demonetization the same has been deposited, it cannot be held that the same is undisclosed sources. Thus, the addition confirmed by the learned CIT(A) is deleted.

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

Order pronounced in the open court on 04th March, 2024

Sd/-
[M. BALAGANESH]
ACCOUNTANT MEMBER

Dated: 04.03.2024

MSK

Copy forwarded to:

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

Sd/-
[AMIT SHUKLA]
JUDICIAL MEMBER

Asst. Registrar,
ITAT, New Delhi,