

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA NO. 2039/MUM/2021 : A.Y :2017-18

Income Tax Officer (IT)-3(1)(1),
Mumbai,
Room No.1630, 16th Floor,
Air India Building,
Nariman Point, Mumbai – 400 021
(Appellant)

Vs. Raj Vasant Jadhav,
701, Hamptoom,
1 Hiranandani Park,
G.B.Road, Thane-400607
PAN: BCGPJ-5865-D
(Respondent)

**Appellant by : Shri Anil Sant-Addl.CIT DR
Respondent by : S/Shri Jayant Bhatt&
Sanjay Behme.**

**Date of Hearing : 23/04/2024
Date of Pronouncement : 25/04/2024**

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The Revenue has filed this appeal challenging the order dated 30/08/2021 passed by Ld CIT(A)-57, Mumbai and it relates to the assessment year 2017-18. The Revenue is aggrieved by the decision of ld. CIT(A) in deleting the addition of Rs.67.19 lacs and Rs.53.05 lacs, both relating to deposits found in the bank account of the assessee.

2. This appeal was initially disposed of on 05-08-2022 on the ground that tax effect involved in this appeal is below the monetary limit prescribed by CBDT in its Circular. Subsequently, the revenue filed a miscellaneous application submitting that the issues contested in this appeal are covered by the exceptions given by CBDT in the Circular. Accordingly, the Tribunal, vide its order dated 31-10-2023 passed in M A No.210/Mum/2023recalled the above said order passed on 05-08-2022. Accordingly, this appeal is placed before us.

3. The facts relating to the case are stated in brief. It is stated that the assessee was working in U.K for the past 15 years and returned back to India after retirement. Hence, the assessee was not filing any return of income in India. It was noticed that the assessee has deposited demonetized currency aggregating to Rs.53,05,000/- in his bank account maintained with ICICI Bank after announcement of demonitization by Government of India. Since the assessee did not file any return of income, the Assessing Officer issued notice u/s. 142(1) of the Act asking the assessee to file return of income. However, the assessee did not respond to the said notice. When the Assessing Officer proposed to complete assessment to the best of his judgment u/s 144 of the Act, the assessee filed a reply through his Chartered Accountant, wherein it was claimed that the assessee had withdrawn money from his bank accounts earlier to the tune of Rs.61.50 lakhs prior to announcement of demonetization and the amount so withdrawn was used to deposit into bank account after the announcement. The Assessing Officer asked the assessee to furnish reasons for withdrawing cash to the tune of Rs.61.50 lakhs on various dates. The reasoning given by the assessee was not convincing to the Assessing Officer. Accordingly, he treated the cash deposit of Rs.53.05 lakhs as unexplained money u/s. 69A of the Act.

4. The Assessing Officer also noticed that there were credits in the bank account aggregating to Rs.67,19,562/- by way of transfer from other accounts. Even though the Assessing Officer did not ask for any explanation with regard to these deposits, yet he treated the same as unexplained money u/s. 69A of the Act.

5. In the appellate proceedings, the CIT(A) accepted the contentions of the assessee that the deposit of Rs.53.05 lacs was made out of cash withdrawals of Rs.67.50 lacs made in earlier months. Accordingly, he deleted the above said addition. With regard to the addition of Rs.67.19 lacs relating to credits by way of transfer, the Id. CIT(A) noticed that they have been transferred from the bank accounts standing in the name of assessee

and his minor daughter. Further, the Id. CIT(A) noticed that the Assessing Officer did not make any enquiry with the assessee with regard to the transfer entries. Accordingly, the Id. CIT(A) deleted the above said addition also. Hence, the revenue has filed this appeal.

6. We have heard the rival contentions and perused the record. We shall first take up the issue relating to addition of Rs.67.19 lacs relating to credits found in the bank account of the assessee by way of transfer. We notice that the assessee had furnished details of the bank accounts standing in his name and his minor daughter's name, from which these amounts have been transferred. The same was also confronted with the Assessing Officer during the course of remand proceedings. The fact that the credit entries are in the nature of transfer from other bank accounts has not been disputed by the Assessing Officer in his remand report. The assessee has stated that the deposits in the other bank accounts were made out of his savings when he was NRI and working in U.K. In the remand report, the Assessing Officer did not dispute this fact also. Hence, the Id. CIT(A) has deleted the addition of Rs.67.19 lacs relating to credits by way of transfer from other bank accounts of the assessee. Since the credits by way of transfer are from known sources and the said sources have not been doubted by AO, we are of the view that these credits aggregating to Rs.67.19 lacs should be considered to have been properly explained by the assessee. Hence, we are of the view that the CIT(A) was justified in deleting this addition. Accordingly, we uphold the order passed by Ld CIT(A) on this issue.

6. With regard to the cash deposit of Rs.53.05 lacs, we noticed that the Assessing Officer has made the addition merely on the reasoning that the assessee did not explain the purpose for which withdrawals were made earlier. There is no material with the Assessing Officer to show that the earlier withdrawals made from bank account were not available with the assessee. We notice that the earlier withdrawals were made in the month of May, 2016 and June 2016 and the cash deposits have been made in November, 2016. It is the submissions of assessee that, after resigning the

job in U.K, he was looking for some business opportunities and hence, these cash were withdrawn. Further, there is a time gap of around five months only between date of withdrawals and date of deposits. We notice that Id. CIT(A) has followed the decision rendered by Delhi ITAT in the case of Gordhan Delhi vs. ITO,(ITA No.811/Del/2015 dated 19/10/2015) wherein also the Assessing Officer had made addition for the reason that there is a gap of five months between the date of withdrawal and date of deposit. The ITAT has held that, in the absence of any material to show that the withdrawals were used for any other purpose, addition could not have been made, mainly on the reasoning that there was a time gap. Following the above said decision, the Id. CIT(A) has deleted the addition. Since the facts available in the present case being identical in nature, we are of the view that the decision so rendered by Id. CIT(A) does not call for any interference. Accordingly, we uphold the order passed by Ld CIT(A) on this issue also.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 25th April, 2024.

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER
Mumbai, Date : 25th April, 2024

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER

VM,Sr.PS(O/S)

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The PCIT concerned
- 4) The D.R, "B" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai