

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI
BEFORE,
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
ITA No.3032/Del/2023
(ASSESSMENT YEAR 2021-22)**

Shipra Singh Rana H-1, Zamrudupr Community Centre, Kailsah Colony, New Delhi PAN-AXHPS9326F (Appellant)	Vs.	ACIT Central Circle-2 New Delhi (Respondent)
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Appellant by	Shri Madhur Agarwal, Adv
Respondent by	Shri Anuj Garg, Sr. DR

Date of Hearing	08/05/2024
Date of Pronouncement	27/05/2024

ORDER

PER YOGESH KUMAR U.S.JM:

This appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals)-23, New Delhi ["Ld. CIT(A)" for short], dated 28/08/2023 for the Assessment Year 2021-22.

2. The Grounds of Appeal are as under:-

"1. That the learned Commissioner of Income Tax (Appeals)-23, New Delhi has erred both in law and on facts in upholding an addition made of Rs. 53,06,600/- representing cash deposited in the bank account of appellant by erroneously invoking section 69A of the Act.

1.1 That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that cash withdrawals made in the preceding years by the appellant and her sister Mrs. Natasha Singh Sinha, duly explained the cash deposits and, as such addition upheld is perse illegal, invalid and untenable.

1.2 That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in recording various adverse inferences which are contrary to the facts on record, material placed on record and, are otherwise unsustainable in law and therefore, addition so upheld is absolutely unwarranted.

1.3. That the learned Commissioner of Income Tax (Appeals) has rejected the explanation tendered by the appellant supported by documentary evidence on surmises, conjectures and suspicion and therefore, addition upheld is wholly unwarranted.

It is therefore, prayed that, that addition made and sustained by the learned Commissioner of Income Tax (Appeals) may kindly be deleted and, appeal of the appellant be allowed.”

3. Brief facts of the case are that, the case of the assessee was selected through CASS on the issue of large cash deposit in the bank account of the assessee and purchase/sale of property. During the year under consideration, the assessee had derived income from house property, capital gains and other sources. The assessee filed her return of income declaring income of Rs.

32,69,240/-. The assessment order came to be passed on 30/12/2022 by making addition u/s 69 of the act on account of unexplained money to the tune of Rs. 53,06,600/- and also addition of Rs. 92,41,310/- u/s 50C of the Act on account of capital gain. As against the assessment order dated 31/12/2022, the assessee preferred an appeal before the CIT(A), the Ld. CIT(A) vide order impugned dated 28/08/2023 remanded the issue in respect of the addition made u/s 50C of the Act on account of capital gain to the file of the A.O. with a direction to recompute capital gains in the hands of the assessee. Further the A.O. confirmed the addition of Rs. 53,06,600/- made by the A.O. on account of cash deposit in the bank account of the assessee by invoking the provision of 69A of the Act. Aggrieved by the order of the CIT(A), the assessee preferred the present Appeal on the Grounds mentioned above.

4. The Ld. Counsel for the assessee submitted that the withdrawal to the tune of Rs. 67,71,934/- by the assessee and her sister from Assessment Year 2008-09 to 2021-22 are not disputed by the A.O. and the cash deposited by the assessee is lesser than the withdrawals made by the assessee i.e. only Rs. 61,71,600/-,

therefore, the burden lies on the Revenue to bring the material to suggest that the money withdrawn by the assessee has been utilized elsewhere for the personal purposes or money so withdrawn is not available with the assessee. The Assessee's Representative relying on the Judgment of the Jurisdictional Hon'ble High Court of Delhi in the case of CIT vs. Kulwant Rai reported in 291 ITR 36 (Del) in support of his submission. The Ld. Counsel further submitted that the Lower Authorities have made no enquiry to find out as to whether the money so withdrawn by the assessee and her husband has been spent away for personal purposes. The Ld. Counsel has also relied on the Judgment of Hon'ble High Court of Karnataka in the case of S. R Venkatraman Vs. CIT reported in 127 ITR 807 (Kar). The Assessee's Representative further placed heavy reliance on the order of the Co-ordinate Bench of the Tribunal in assessee's mother case i.e. Rita Singh Vs. CIT in ITA No. 3030/Del/2023 dated 25/04/2024 and prayed for allowing the Appeal.

5. Per contra, the Ld. Departmental Representative submitted that the assessee made withdrawals in different years and made cash deposit in the year under consideration on multiple times and

no prudent person will keep the withdrawn cash for such a long gap and deposit the same in various times. Further no explanation for the purpose of cash withdrawals has been furnished by the Assessee and also no justification has been furnished as why would a person withdraw money from bank and keep it as cash in hand for 3-4 years. The Ld. Departmental Representative relying on the orders of the Lower Authorities sought for dismissal of the Appeal filed by the assessee.

6. We have heard both the parties and perused the material available on record. During the assessment proceedings when the assessee was asked to furnish the details regarding source of cash deposit along with documentary proof. The assessee submitted that the cash deposited was out of cash in hand from withdrawal made by the assessee in following Assessment Years:-

<i>Assessment Year</i>	
<i>2018-19</i>	<i>9,13,500.00</i>
<i>2019-20</i>	<i>12,19,500.00</i>
<i>2020-21</i>	<i>3,61,400.00</i>
<i>2021-22</i>	<i>1,04,500.00</i>
<i>Total</i>	<i>25,98,900</i>

Further the Assessee also contended that sister of the assessee Miss Natasha Singh has cash withdrawals from bank which was deposited in

the bank account of the assessee and the assessee provided the withdrawal of Ms. Natasha Singh are as under:-

<i>Assessment Year</i>	
<i>2018-19</i>	<i>32,19,734</i>
<i>2019-20</i>	<i>4,10,200/-</i>
<i>2020-21</i>	<i>1,94,100/-</i>
<i>2021-22</i>	<i>3,49,000/-</i>
<i>Total</i>	<i>41,73,034/-</i>

7. The said explanation was not believed by the A.O. on the ground that no person in normal course would withdraw cash from bank and will keep the same amount at whom for years and then start depositing the same in piecemeal manners in more than sixty times during the year, which is beyond the realm of human probability and possibility, the Assessee has not produced the cash book to explain the version. Accordingly, the A.O. made the addition.

8. It is not in dispute that the withdrawals are to the tune of 67,71,934/- by the Assessee and her sister from Ay 2018-19 to 2021-22 and the cash deposited are lesser than the said amount. It is also not in dispute that the Assessee has claimed that she kept the huge cash with her for years and deposited in sixty installments

in the year consideration. Though we are agree with contention of the Ld. Departmental Representative that no prudent person will keep the withdrawn cash for three to four years and deposit after four years in sixty installments. It is true that the burden to give explanation for the purpose of cash withdrawals lies on the Assessee on the other hand, the A.O. is also duty bound to conduct enquiry to show that money so withdrawn by the Assessee has been spent away for personal purpose. In the present case, the A.O. being an investigator and also the adjudicator has not made any enquiry on the said count.

9. The identical question came for consideration in Assessee's mother's case wherein the Tribunal in the case of Rita Singh Vs. CIT in ITA No. 3030/Del/2023 dated 25/04/2024 while deleting the similar addition held as under:-

“13. From the above it is evident that cash withdrawals to the tune of Rs. 81,06,500/- by the assessee and her husband from assessment years 2018-19 to 2021-22 are not disputed by the Learned AO and Learned CIT(A). Once the cash withdrawals are in excess of the cash deposits, then it is amply clear that the cash deposits in the bank account were out of the available sources of the assessee. The burden lies on the revenue to bring material on record to suggest that the money withdrawn by the assessee was utilized elsewhere for personal purposes or the money so withdrawn was not available with the assessee as per the mandate of Hon'ble Delhi High Court in the case of CIT vs. Kulwant Rai (supra). In view of

the above material facts apparent on record and well settled principle of law the passing of impugned orders is not just fair and reasonable and deserved to be set aside.”

10. By following the ratio laid down by the Coordinate Bench of the Tribunal, in the case of Rita Singh (supra) and in the absence of any change of circumstances brought to the notice of the Bench, the addition made by the A.O. u/s 69A of the Act to the tune of Rs. 53,06,600/- which has confirmed by the Ld. CIT(A) is hereby deleted.

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

Order pronounced in open Court on 27th MAY, 2024

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 27/05/2024

R.N, Sr.ps

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

