

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.916/Ahd/2023  
Assessment Year: 2017-18**

Harun Ganibhai Ghanchi, A-3, 3 <sup>rd</sup> Floor, Nawab Apartments, Opp. Gujarat Today Press, Shahalam, Ahmedabad - 380 028. <b>[PAN – BAHPG 2802 C]</b>	Vs.	The Income Tax Officer, Ward – 6(1)(2), Ahmedabad.
(Appellant)		(Respondent)
Assessee by	Shri Tej Shah, AR	
Revenue by	Shri Purshottam Kumar, Sr. DR	
Date of Hearing	12.06.2024	
Date of Pronouncement	19.06.2024	

**ORDER**

This appeal is filed by the assessee against order dated 12.10.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

2. The assessee has raised the following ground of appeal :-

1. *The CIT(A) erred in law and in the facts of the case in confirming the order of the AO in making addition of Rs.37,85,000/- u/s.69A of the Act.*

3. The assessee is an individual and filed return of income on 29.03.2018 declaring total income of Rs.9,02,700/-. The case was selected for complete scrutiny for Assessment Year 2017-18. The Assessing Officer passed order under Section 144 of the Income Tax Act, 1961 on 26.11.2019 making an addition of Rs.47,85,000/- as addition on account of unexplained cash deposit in Bank under Section 69A of the Act.

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

5. The Ld. AR submitted that despite giving copy of return of income and computation of total income, bank statement for the year and copy of RC Book in support. The Assessing Officer as well as the CIT(A) ignored these documents and the CIT(A) dismissed the appeal of the assessee. The Ld. AR pointed out the submissions before the CIT(A) wherein it is stated that the Assessing Officer passed ex-parte order on the basis of conjectures and surmises. The Ld. AR further submitted that the Assessing Officer did not confirm about the income of the assessee and added the entire cash which is not possible with the remotest possibility. The Ld. AR submitted that the Assessment Order passed by the Assessing Officer is without application of mind and without due care and violation of the principles of natural justice. The Ld. AR further submitted that the entire cash deposit with the bank cannot be income of the assessee as stated by the Assessing Officer but under Section 44AE of the Act the assessee has declared the income of Rs.9,02,700/- in the present Assessment Year. The Ld. AR further submitted that the Assessing Officer should have taken into account earlier return of income wherein the assessee is regularly declaring his income under Section 44AE of the Act as the assessee is dealing with the hiring of three heavy vehicles and, therefore, mostly dealing in cash. The Ld. AR further submitted that the assessee did not require the present books of account as he has opted for presumptive taxation under Section 44AE of the Act but the Assessing Officer linked the cash deposit with the bank as income of the assessee but it is nothing but out of the gross receipt of the business of the assessee from time to time. The Ld. AR relied upon the RC Book of transport vehicles owned by the assessee. The Ld. AR further submitted that the cash deposit by the assessee in his Savings Bank Account is nothing but cash deposit out of the proceeds of the transport income in cash. The Assessing Officer decided the case under Section 144 but has not looked at the surrounding circumstances to find out the reality of the transactions. Merely assessee's failure to explain the source of the cash will not automatically attract the addition of the cash deposit under Section 68 of the Act. The assessee is a small trader and cannot earn income out of business which he is having. The Ld. AR submitted that the Assessing Officer erred on facts and in

law in making the addition as the requirement of application of mind is missing in the present case. The Ld. AR relied upon the decision of the Tribunal in case of Thomas Eapen vs. ITO (2020) 113 taxmann.com 268 (Cochin Tribunal)

6. The Ld. DR submitted that the assessee at no point of time proved the genuineness and creditworthiness of the cash deposits including from where the assessee acquired such kind of cash in hand. The Ld. DR further submitted that the assessee has not prepared any books and, therefore, to prove that exorbitant amount of cash deposited which was during the demonetisation as in respect of the assessee's business or about any other income component. The Ld. DR further submitted that because there was failure on the part of the assessee for explaining the genuineness of the cash credit in bank deposit under Section 68 of the Act is rightly invoked by the Assessing Officer and rightly confirmed by the CIT(A). The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee in the Paper Book has given the return of income along with computation of total income for the present Assessment Year as well as prior and subsequent Assessment Year. It is true that the assessee is filing return under Section 44AE of the Act and it reflects the vehicles related to heavy goods and thus the assessee is in transport business but from the perusal of this bank statement it appears that the assessee from 21.11.2016 till the period of 04.03.2017 has deposited cash for more than Rs.1,00,000/- totalling to Rs.37,85,000/-. After seeing the Paper Book-2 wherein the assessee has given service bill, tyre bill, diesel bills and vouchers alongwith sale bill most specifically from page nos.51 to 56, the same are related to the period 04.05.2012 till 19.04.2015 but the same is not relevant in the present Assessment Year which is the Assessment Year 2017-18. The Ld. AR at the time of hearing submitted that further time may be granted to the assessee for presenting the subsequent documents but in the present case the assessee in the Paper Book has given the mere service book which in entirety will also not demonstrate that the assessee was having cash in hand to its transport business and in fact the assessee has not given any details that the assessee is having any

other business or any other source of income while depositing the huge amount of cash which is more than Rs.1,00,000/-. The CIT(A) has rightly held that the credit worthiness and genuineness regarding source of Rs.37,85,000/- was not proved and, therefore, the CIT(A) correctly confirmed the addition. There is no need to interfere with the same.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on this 19<sup>th</sup> June, 2024.

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 19<sup>th</sup> June, 2024**  
**PBN/\***

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

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*