

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" DELHI**

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA No.1210/Del/2024
Assessment Year 2017-18

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| Sumedha Gupta C-15, Anand Niketan New Delhi | Vs. | ACIT, Circle-21(2) Delhi |
| TAN/PAN: AHDPG5861H | | |
| (Appellant) | | (Respondent) |

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|------------------------|--|----|------|
| Applicant by: | Sh. Rajendra Handa, Chartered Accountant | | |
| Respondent by: | Sh. Om Prakash, Sr.DR | | |
| Date of hearing: | 19 | 06 | 2024 |
| Date of pronouncement: | 19 | 06 | 2024 |

ORDER

PER PRADIP KUMAR KEDIA - A.M.:

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ['CIT(A)' in short] dated 19.01.2024 arising from the assessment order dated 29.11.2019 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning A.Y. 2017-18.

2. As per the grounds of appeal, the assessee has challenged the additions to the extent of Rs.8,03,500/- towards unexplained cash deposit under Section 69A of the Act as confirmed by the CIT(A).

3. When the matter was called for hearing, the Id. Counsel submitted that the assessee deposited cash of Rs.11,53,000/- in aggregate during demonetization period hovering between 08.11.2016 to 31.12.2016. Rs.6,00,500/- was deposited in her HDFC bank account whereas Rs.5,53,000/- was deposited in Standard

Chartered Bank (SCB). The AO treated such cash deposits as unexplained and made an addition of Rs.11,53,500/-.

31. Before the First Appellate Authority, the assessee explained that she is having opening cash in hand of Rs.3,53,500/- at the beginning of the Financial Year 2015-16 i.e. as on 01.04.2015. The assessee withdrew Rs.5 lakh from SCB on 15.09.2015 another sum of Rs. 5 lakh were withdrawn from SCB on 13.10.2015. She also withdrew Rs.1 lakh on 03.08.2016. After incurring some expenses, she was holding cash of Rs.11,53,500/- immediately prior to demonetization. The aforesaid amount was deposited in the bank account as per the Government Directives. The CIT(A) however having recorded these facts, granted relief of Rs.2,50,000/- in line with CBDT Instruction No.3/017 applicable to women tax payers. The CIT(A) also accepted the source of cash deposit to the extent of Rs.1 lakh out of immediate past withdrawal from SCB in August, 2016. The CIT(A) thus granted partial relief and allowed relief to the tune of Rs.3,50,500/- as explained source of cash deposits. The additions towards remaining amount of Rs.8,03,500/- was however confirmed.

3.2 In this regard, the Id. Counsel assailed the action of the Revenue on the ground that the assessee was about 67 years of age at the time of demonetization. The source of cash deposited in the bank account is reflected from the bank statement albeit withdrawn in September, 2015 and October 2015. Such balances are ordinarily required to be kept by the person in the old age as a safety measure to meet the emergency needs. The Id. Counsel thus submitted that the explanation offered towards source of cash deposit cannot be shunned summarily. The Id. Counsel submitted that the explanation towards source of cash deposits out of withdrawals in the past

cannot be said to be farfetched but rather should be taken as satisfactory, keeping in mind the advanced age of the tax payer. The Id. Counsel relied upon the judgment rendered by the Hon'ble Delhi High Court in the case of *Jaya Aggarwal vs. ITO, (2018) 101 CCH 0106 (Del)* and the decision of the Co-ordinate Bench in the case of *Priti Bhardwaj vs. ITO in ITA No.78/Del/2024, order dated 22.03.2024* wherein the additions towards cash deposits were held to be unsustainable in law in similar circumstances.

3.3 The Id. Counsel thus submitted that the action of the Revenue in sustaining the additions to the extent of Rs.8,03,500/- is based on misappreciation of facts and law and thus calls for reversal thereof.

4. The Id. DR for the Revenue, on the other hand, strongly relied upon the analysis of the factual position recorded in the first appellate order. The Id. DR submitted that the deposit of cash during demonetization period do not resonate with the preponderance of probabilities. The Id. DR thus submitted that CIT(A) has already granted relief as warranted in terms of CBDT Instruction and no further relief is justifiable in the factual matrix.

5. I have carefully considered the rival submissions and perused the first appellate order as well as the assessment order. Material referred to and relied upon on behalf of the assessee as placed in the paper book has also been taken into account.

6. The assessee has demonstrated on facts that an amount of Rs.5 lakh was withdrawn in September, 2015 and similar amount was withdrawn in October, 2015. Such past withdrawals explain the source of cash deposits reasonably. The law does not require an assessee to prove her case to the hilt in such cases. The source of cash deposits is broadly reconciled from the facts emerging on

record. It is common knowledge that in the construct of the Indian society, citizens do, at times, keep cash for immediate use in their custody to meet the exigencies. Holding cash of about Rs.10 lakh towards conceivable medical and other needs thus cannot be seen with great suspicion. The preponderance of probabilities are in favour of the assessee. I see no perceptible reason to disbelieve the explanation offered towards source of cash deposit. The action of the CIT(A) is thus set aside and the AO is directed to delete the addition towards cash deposit in question.

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

Order was dictated and pronounced in the open Court on 19th June, 2024.

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: June, 2024
Prabhat