

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 150/JP/2024  
निर्धारण वर्ष/Assessment Year : 2011-12

Shri Ram Gopal Saini 470-71, Devi Nagar, New Sanganer Road, Jaipur 302 001	बनाम Vs.	The ITO Ward- 4 (2) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADSEPS 0670 F		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Rohan Sogani, CA  
राजस्व की ओर से/ Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख/Date of Hearing : 26/06/2024  
उद्घोषणा की तारीख/Date of Pronouncement: 01 /07/2024

आदेश/ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id. CIT(A) dated 29-12-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2011-12 raising therein following grounds of appeal.

- “1. In the facts and circumstances of the case and in law Id. CIT(A)/NFAC has erred in confirming the action of Id. AO in reopening the case of the assessee u/s 147 of the Act. The action of the Id. CIT (A)/NFAC is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire reassessment proceedings.
2. In the facts and circumstances of the case and in law, Id.CIT(A) /NFAC has erred in confirming the action of the Id. AO in issuing notice u/s 148 without obtaining proper

sanction u/s 151 of the Act. The action of the Id. CIT (A)/NFAC is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the entire reassessment proceedings.

3. In the facts and circumstances of the case and in law, Id. CIT(A) /NFAC has erred in confirming the addition of Rs. 7,57,000 u/s 69 of the Act. The action of the Id. CIT (A)/NFAC is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting such addition amounting to Rs 7,57,000.

2.1 During the course of hearing, the Id. AR of the assessee has not pressed the Ground No. 1 & 2. Hence, the same are dismissed being not pressed.

3.1 Apropos Ground No. 3, as per the facts of the present case, the AO made additions under section 69 of the IT Act on account of cash deposited in the bank account treating the same to be unexplained.

3.2 On appeal the NFAC restricted the additions to Rs. 7, 57, 000/- out of e total additions of Rs. 19, 57, 000/- made by the AO.

3.3 Against this order, the assessee has filed the present appeal before me on the grounds mentioned here in above.

3.4 The only ground raised by the assessee is challenging the order of upholding of additions and in this regard assessee has reiterated the same arguments as were raised by learned AR before the revenue authorities has also relied on his written submissions which are reproduced here in below

### 3. SUBMISSIONS:

3.1 It is submitted that the assessee deposited Rs 10,57,000 in his bank account maintained with ICICI Bank. Out of the total amount of cash deposited of Rs 10,57,000, assessee took loan of Rs 10,00,000 from three persons i.e., Maya Devi Jain, Lokendra Jain, and Ramesh Chandra Jain to purchase immovable property and balance Rs 57,000 were out of his earlier accumulated savings.

3.2 The assessee had taken entire loan **through banking channel**. This fact is not in dispute. Details of loan taken are as under:

<b>Date of receipt</b>	<b>Particulars</b>	<b>Amount in Rs.</b>	<b>PB</b>
09.08.2010	Maya Devi Jain	3,00,000	7
16.08.2010		2,00,000	
16.08.2010	Ramesh Chandra Jain	4,00,000	7
18.09.2010	Lokendra Jain	1,00,000	7
	<b>Total</b>	<b>10,00,000</b>	

3.3 The assessee after obtaining such loans from the aforementioned persons withdrew cash for purchase of immovable property. However, the deal could not be materialized as the seller of the property demanded higher amount than the agreed price between them.

3.4 The assessee after such increase in price of the immovable property decided not to purchase the said property and again deposited the amount in bank. After such deposition of cash, the assessee repaid the loan to the said parties. The entries of loan taken and repaid are clearly evident in the bank statement itself.

3.5 The above transactions of acceptance of loan, withdrawal of cash and repayment of loan can be summarized as under:

<b>Date of receipt</b>	<b>Particulars</b>	<b>Amount in Rs.</b>
09.08.2010	Maya Devi Jain	3,00,000
16.08.2010		2,00,000
16.08.2010	Ramesh Chandra Jain	4,00,000
18.09.2010	Lokendra Jain	1,00,000
	<b>Total</b>	<b>10,00,000</b>

**Date of Cash withdrawal for purchasing the property on 17-08-2020 and 18-09-2010**

**Date of Cash deposit in Bank: 22-10-2010**

Date of repayment	Particulars	Amount of loan taken	PB
26.10.2010	Maya Devi Jain	5,00,000	2
26.10.2010	Ramesh Chandra Jain	4,00,000	2
07.01.2011	Lokendra Singh	1,00,000	2
	<b>Total</b>	<b>10,00,000</b>	

3.6 It can be seen that within a short span of two months the assessee had repaid the loan taken for the purchase of immovable property as the deal could not be executed at the agreed price.

3.7 Ld. NFAC out of the total cash deposited of Rs 10,57,000, granted relief of Rs 3,00,000 on the basis of past savings & cash in hand and confirmed the balance addition of Rs 7,57,000 (10,57,000-3,00,000)

3.8 Ld. NFAC has misdirected itself in assuming that the assessee **has not provided the source of cash deposits**. The source of cash deposits is the loan taken from aforementioned parties.

3.9 The assessee has furnished adequate documents in order to prove the acceptance of loan from various persons which is the source of cash deposits. The said fact is undisputed.

3.10 Ld. NFAC has itself mentioned at **Page-6** of the order that the assessee has furnished PAN and Aadhar of the persons from whom the loans were taken. The said fact itself proves that the assessee has established the source of cash deposits in the bank.

3.11 It is submitted that the entire transaction of loan is **through the banking channel**. The entries of loan acceptance is reflecting in the bank statement of the assessee [PB 7]

3.12 The bank statement of the lender also reflects the entries of loan given to the assessee [PB 10, 15,17] The said facts are not disputed by ld. NFAC.

3.13 Ld. NFAC has not doubted the loan transaction of the assessee. He has further not doubted the cash withdrawals made out of such loan accepted by the assessee.

3.14 The only suspicion in the mind of Ld. NFAC **was the source of cash deposit** made by the assessee. The whole transaction has taken place in the following sequence:

- a. Loan acceptance by the assessee
- b. Cash withdrawal out of the loan accepted by the assessee
- c. Cash deposited out of the above cash withdrawal
- d. Loan returned by the assessee

3.15 The above transaction took place in a short span of two to three months. It is important to note that ld. NFAC has not disputed the first two steps of the transaction. However, has only doubted the source which has been well explained by the assessee.

3.1 Following documents were submitted before ld. NFAC to prove the loan transaction:

- a. PAN, Aadhar and Bank Statement of the lenders

3.17 The said transaction as well as documents **are not disputed by ld. NFAC.** Reliance is placed on the **recent judgement of ITAT, Jaipur Bench** wherein it has been held as under:

**Shri Ashok Choudhary vs. ITO Ward- Jhalawar ITA No. 238/JP/2024**

*After having gone through the facts of the case and after hearing both the parties at length and on perusal of the documents placed on record, orders passed by the Revenue Authorities and the judgements cited by the respective parties, the Bench found that it is an undisputed fact that the assessee had withdrawn amount of Rs.24.00 lacs from his bank account on 11-11-2024 and re-deposited the equal amount in his bank account on 23-11-2016. Thus, in this way, the source of deposit of cash in the bank account of the assessee stands fully proved.*

3.18 Hon'ble Bench has relied on the following judgements while passing the aforementioned order.

**i. Hon'ble Karnataka High Court in the case of S.R. Venkata Ratnam vs CIT (1981) 127 ITR 807**

*There is some force in the argument of the ld counsel for the petitioner and the judgement advanced by the Revenue is, therefore, without any force. Once the petitioner assessee discloses the source as having come from the withdrawal made on a given date from a given bank, it was not possible for respondents Nos. 1 and 2 to concern themselves with what the assessee did with that*

money, i.e. whether he had kept the same in his house or utilized the services of a bank by depositing the same.

ii. **Hon'ble Delhi High Court in the case of CIT vs Kulwant Rai (200&0, 210 CTR 380 (Delhi)**

*The orders of Assessing Officer as well as Commissioner of Income-tax are completely silent as to for what purpose the earlier withdrawals would have been spent. As per the cash book maintained by the assessed, a sum of Rs. 10,000/- was being spent for household expenses every month and the assessed has withdrawn from bank a sum of Rs. 2 lacs on 4th December, 2000 and there was no material with the Department that this money was not available with the assessed. It has been held by the Tribunal that in the instant case the withdrawals shown by the assessed are far in excess of the cash found during the course of search proceedings. No material has been relied upon by the Assessing Officer or Commissioner Income-tax (A) to support their view that the entire cash withdrawals must have been spent by the assessed and accordingly, the Tribunal rightly held that the assessment of Rs. 2.5 lacs is legally not sustainable under section 158BC of the Act and the same was rightly ordered to be deleted."*

3.5 After having heard the Counsel for both the parties and after perusal of the material placed on record and the judgements cited by the parties I noticed from the record that the assessee deposited Rs 10,57,000 in his bank account maintained with ICICI Bank. Out of the total amount of cash deposited of Rs 10,57,000, assessee took loan of Rs 10,00,000 from three persons i.e., Maya Devi Jain, Lokendra Jain, and Ramesh Chandra Jain to purchase immovable property and balance Rs 57,000 were out of his earlier accumulated savings. The assessee had taken entire loan **through banking channel**. This fact is not in dispute. Details of loan taken are as under:-

Date of receipt	Particulars	Amount in Rs.	PB
09.08.2010	Maya Devi Jain	3,00,000	7
16.08.2010		2,00,000	
16.08.2010	Ramesh Chandra Jain	4,00,000	7

18.09.2010	Lokendra Jain	1,00,000	7
	<b>Total</b>	<b>10,00,000</b>	

And after obtaining loan from the aforesaid persons withdrew cash for purchase of immovable property and since the deal Could not be materialised because of dispute of price between them therefore the said amount was again redeposited in the bank and consequently the assessee repaid the loan to the said parties . I have perused the entries of loan taken and repaid which are clearly evident in the bank statement itself. The summarised transactions of acceptance of loan, withdrawal of cash and re- payment of loan are reproduced below:-

<b>Date of receipt</b>	<b>Particulars</b>	<b>Amount in Rs.</b>
09.08.2010	Maya Devi Jain	3,00,000
16.08.2010		2,00,000
16.08.2010	Ramesh Chandra Jain	4,00,000
18.09.2010	Lokendra Jain	1,00,000
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**Date of Cash withdrawal for purchasing the property on 17-08-2020 and 18-09-2010**

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26.10.2010	Ramesh Chandra Jain	4,00,000	2

07.01.2011	Lokendra Singh	1,00,000	2
	<b>Total</b>	<b>10,00,000</b>	

From the records I also noticed that within a short span of 2 months the assessee had repaid the loan taken for the purchase of immovable property as the deal could not be materialised. Whereas the NFAC has misdirected itself in assuming that the assessee has not provided the source of cash deposits. However the assessee has categorically mentioned the source of cash deposits is the loan taken from the aforementioned parties. And in this regard, the assessee had furnished adequate documents in order to prove the acceptance of loan from various persons which is the source of cash deposits and the said fact has not been disputed by the revenue. I also noticed that ld. CIT(A) NFAC has itself mentioned in its order that the assessee has furnished Pan and Aadhar of the persons from whom the loans were taken. It is also important to mention here that the entire transaction of loan is through the banking channel and the entries of loan acceptance is reflected in the bank statement of the assessee which is at paper book page number 7. The similar issue has already been decided by the co-ordinate bench of ITAT Jaipur in the case of Ashok Choudhary versus ITO ITA 238 /JP/ 2024 where in it was held as under:-

**‘ Shri Ashok Choudhary vs. ITO Ward- Jhalawar ITA No. 238/JP/2024**

*After having gone through the facts of the case and after hearing both the parties at length and on perusal of the documents placed on record, orders passed by the Revenue Authorities and the judgements cited by the respective parties, the Bench found that it is an undisputed fact that the assessee had withdrawn amount of*

*Rs.24.00 lacs from his bank account on 11-11-2024 and re-deposited the equal amount in his bank account on 23-11-2016. Thus, in this way, the source of deposit of cash in the bank account of the assessee stands fully proved.’’*

Therefore taking into consideration the totality of the facts and circumstances of the present case it is an undisputed fact that the assessee had taken the loan from the aforesaid persons through banking channel and withdrawn the cash for the purpose of purchase of the property , but since the deal could not be materialised therefore the cash was again redeposited in the bank account and consequently the loan was repaid. Thus , in this way the source of deposit of cash in the bank account of the assessee stands fully proved. Therefore keeping in view the above observations the bench deletes the above addition. Hence, the appeal of the assessee is allowed.

4.0 In the result, the appeal of the assessee stands allowed with no orders as to costs.

Order pronounced in the open court on 01 /07/2024.

Sd/-

(संदीप गोसाई)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 01 /07/2024

**\*Mishra**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Ram Gopal Saini, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward- 4(2), Jaipur
3. आयकर आयुक्त / The Id CIT

4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 150/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar