

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

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
&
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1054/Ahd/2023

(निर्धारण वर्ष / Assessment Year : 2017-18)

Ramabhai Dhudabhai Patel Vardhman Complex, B/h. Bhanshali Trust, College Road, Deesa, Banaskantha, Gujarat, 385535	बनाम/ Vs.	Income Tax Officer Ward – 1, Palanpur
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : APKPP2715C		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Manthan Khokhani, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri Sanjay Jain, Sr. DR

Date of Hearing	15/07/2024
Date of Pronouncement	22/07/2024

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi, (in short ‘the CIT(A)’) dated 17.10.2023 for the Assessment Year 2017-18.

2. The brief facts of the case are that no return of income for A.Y. 2013-14 was filed by the assessee. It transpired that the assessee had deposited cash of Rs.19,29,021/- in RBL Bank Ltd., Deesa Branch, Deesa during the demonetization period. The case was selected for scrutiny as Operation Clean Money (‘OMC’)

case to verify the source of cash deposits. The AO held the cash deposit of Rs.11,26,133/- as unexplained and the rest of the amount was considered as explained. Accordingly, the assessment was completed under Section 144 of the Income Tax Act, 1961 (in short 'the Act') on 27.12.2019 at total income of Rs.11,26,133/- .

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the First Appellate Authority, which was decided by the CIT(A) vide the impugned order and the addition as made by the AO has been confirmed.

4. Now, the assessee is in appeal is before us.

5. The assessee has taken the following grounds in this appeal:

- “1. *In law and in the facts and circumstances of the appellant's case, the Hon' CIT(A) has erred in upholding the addition made by the Ld. A.O u/s. 69A.*
2. *In law and in the facts and circumstances of the appellant's case, the Ld. CIT(A) has erred in confirming the levy of interest u/s. 234(a), 234(b), 234(c), 234(d).”*

6. Shri Manthan Khokhani, the Ld. Counsel for the assessee submitted that the source of cash deposits in the bank account was the previous withdrawal of cash from the same bank account. He explained that the assessee had obtained loan from RBL Bank and the first tranche of loan of Rs.10,95,836/- was deposited in the Bank account on 29.12.2015 whereas the 2nd tranche of Rs.6,75,464/- was deposited on 12.04.2016. The assessee had periodically withdrawn cash from the said account for the purpose of purchase of land. Certain advance was also given to

one of the sellers for this purpose. However, the transaction did not materialize and, therefore, the cash as lying with the assessee was re-deposited in the bank account during demonetization period. Thus, the source of the entire cash deposits during demonetization period was out of the earlier cash withdrawals made from the bank account itself. The Ld. AR submitted that the Ld. CIT(A) did not admit the additional evidence brought on record in this regard during appeal proceeding and had rejected the explanation of the assessee on the ground that sanction letter of loan obtained from the Bank was not furnished. He also submitted that no opportunity was allowed by the Ld. CIT(A) to bring on record any further evidence as required by him and that his order was without correct appreciation of facts of the case.

7. Per contra, Shri Sanjay Jain, Sr. DR submitted that the assessee had changed his stand before the Ld. CIT(A), which was rightly rejected. He explained that the AO had allowed part relief out of total cash deposits after considering the bill for sale of agricultural produce submitted by the assessee for the F.Ys. 2016-17 & 2015-16. Thus, the contention of the assessee before the AO was that the cash deposits were out of agricultural sale proceeds. On the other hand, the assessee had totally changed his stand before the Ld. CIT(A) and submitted that cash deposits were out of earlier cash withdrawals. The Ld. Sr. DR submitted that as the assessee had failed to substantiate the claim of loan from RBL Bank, the additional evidences as filed before the Ld. CIT(A) was rightly rejected by him.

8. We have carefully considered the rival submissions and the materials on record. It is found that the AO had accepted part of the cash deposits on the basis of the bills for sale of agriculture produce. The assessee had produced bills for Rs.6,39,063/- for F.Y. 2016-17 and of Rs.1,63,825/- for F.Y. 2015-16, totaling to Rs.8,02,888/-, which was accepted by the AO. The bills pertaining to F.Y.2014-15 were rejected by the AO on the ground that they were too old to be acceptable. Accordingly, the AO had treated the cash deposit of Rs.8,02,888/- as explained and made addition for balance amount of Rs.11,26,133/-. The approach of the AO cannot be accepted as fully correct. There is no dispute to the fact that the assessee was an agriculturist and he might not have properly maintained all the bills for all the years. Rather than allowing relief only on the basis of bills, the AO should have examined the total land holding of the assessee and thereafter worked out the agriculture income as derived therefrom. Be that as it may, the assessee had contended before the Ld. CIT(A) that the cash deposits during demonetization period were out of cash withdrawal made earlier from the same account. It was also contended that certain loan amount was sanctioned by RBL Bank which was credited to the same bank account. The amounts were explained to be withdrawn for purchase of agricultural land which ultimately didn't materialize. The assessee has furnished the following statement of deposits of loan proceeds in the bank account and subsequent cash withdrawals from the same bank accounts:

Ramabhai Dhudabhai Patel ITAT Appeal A.Y. 2017-18			
Statement showing Deposit of loan proceeds and subsequent cash withdrawals			
Date	Particulars	Amount (Rs.)	Amount (Rs.)
29/12/2015	Deposit of loan proceeds from RBL bank [A]		10,95,836.00
30/12/2015	Cash withdrawal [HDFC Bank]	1,00,000.00	
06/01/2016	Cash withdrawal [HDFC Bank]	2,50,000.00	
08/01/2016	Cash withdrawal [HDFC Bank]	2,50,000.00	
22/01/2016	Cash withdrawal [HDFC Bank]	2,00,000.00	
23/02/2016	Cash withdrawal [HDFC Bank]	1,00,000.00	
31/03/2016	Cash withdrawal [HDFC Bank]	3,00,000.00	
	Total Cash withdrawals made during F.Y. 2015-16 [B]		12,00,000.00
12/04/2016	Deposit of loan proceeds from RBL bank [C]		6,75,464.00
02/05/2016	Cash withdrawal [HDFC Bank]	1,25,000.00	
10/05/2016	Cash withdrawal [HDFC Bank]	2,87,000.00	
27/07/2016	Cash withdrawal [Dena Bank]	5,36,000.00	
	Total cash withdrawals made from 01/04/2016 to 27/07/2016 [D]		9,48,000.00
SUMMARY			
	Total Loan Proceeds deposited in bank [A+C]		17,71,300.00
	Total Cash Withdrawals before demonitisation [B+D]		21,48,000.00

The Ld. CIT(A) did not accept the explanation of the assessee for the reason that no sanction letter of the RBL bank was submitted. Further that the evidence for proposed purchase of agricultural land was not supported by any 3rd party evidence, such as, agreement of sale.

9. It is found that the Ld. CIT(A) has rejected the evidences filed by the assessee on the presumption that no bank gives loan for purchase of agricultural land. It is apparent from the order of the CIT(A) that no opportunity was provided to the assessee to furnish the sanction letter of the loan amount by the Bank as well as the other evidences as discussed in the order of the Ld. CIT(A). Further, the argument of cash deposit being out of previous cash withdrawals was made for the first time before the Ld. CIT(A) and the AO didn't have any opportunity to examine such claim of the assessee. We, therefore, deem it proper to set aside the matter to the file of the Jurisdictional AO to verify the contention of the

assessee regarding source of the cash deposits made during demonetization period being out of cash withdrawals made earlier from the same bank account. The AO should also verify the correctness of the claim of the assessee regarding sanction of loan by RBL Bank as well as the correctness of the claim before the CIT(A) that an agreement was made by the assessee with one Shri Rameshbhai Patel regarding purchase of agricultural land, which ultimately did not materialize. This apart, the AO may also verify the total land holding of the assessee and work out how much agricultural income would have been derived by the assessee. The AO should take a holistic view of the matter and the credit for cash available with the assessee should be allowed even if the bill for the entire amount is not available with the assessee. Needless to mention, the assessee should be allowed a proper opportunity of being heard and to bring on record the evidences in support of his contentions.

10. In the result, appeal preferred by the assessee is allowed for statistical purposes.

This Order pronounced on 22/07/2024

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER
Ahmedabad; Dated 22/07/2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

S. K. SINHA

True Copy

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad

6. गार्ड फाइल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad