

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT  
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No. 205/Bang/2024
Assessment Year: 2016-17

Bhagwana Ram, No.37, 2 <sup>nd</sup> Cross, Manjunatha Layt, R.T Nagar, Bengaluru-560 032.  <b>PAN – ARAPB 7672 G</b>	Vs.	The Income Tax Officer, Ward – 6(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Pragnesh J, CA
Revenue by	:	Ms. Matta Padma, Addl. CIT (DR)

Date of hearing	:	06.06.2024
Date of Pronouncement	:	22.07.2024

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 28/11/2023 in DIN No. ITBA/NFAC/S/250/2023-24/1058260935(1) for the assessment year 2016-17.

2. The only issue raised by the assessee is that the Id. CIT(A) erred in confirming the addition made by the AO amounting to Rs. 34,41,289/- on account of cash deposits in the bank u/s 68 of the Act.

3. In the present case, there was a cash deposit by the assessee in the bank account amounting to Rs. 34,41,289/-, the source of which was not explained by the assessee. Therefore, the AO treated the same as

unexplained cash credit u/s 68 of the Act and added to the total income of the assessee.

4. Aggrieved, the assessee preferred an appeal to the Id. CIT(A).

5. The assessee before the Id. CIT(A) submitted that the total cash deposits in the year in dispute stands at Rs. 83,51,850/-, whereas the AO has picked up the sum of Rs. 34,41,289/- representing the cash deposit for the purpose of the addition. As per the assessee, the basis adopted by the AO was not known to him, for treating only part of the cash deposit of Rs. 34,41,289/- as unexplained cash credit. The assessee further submitted that the cash was deposited out of the cash withdrawals from the bank on earlier occasions. The assessee also submitted that the source of cash deposits has already been accounted as income and offered to tax.

6. However, the Id. CIT(A) disagreed with the submission of the assessee and confirmed the order of the AO by observing as under:

*“6.2 The appellant in its ground of appeal 2 has assailed the AO for making an addition u/s 68 of cash of Rs. 34,41,289/- credited in his bank account. The appellant in his submission has stated that the cash deposited in his bank account is backed by earlier cash withdrawals and by application of peak theory balance the appellant does not have any negative balance and thus no addition no account of cash deposit need to be made.*

*6..1 The appellant has not submitted any evidence in support of his contention therefore the addition made by the AO is sustained. The ground of appeal 2 is dismissed.”*

7. Being aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

8. The Id. AR before us filed a paper book running from pages 1 to 124 and contended that all the cash deposits were out of the cash withdrawals from bank. The Id. AR in support of his contention has drawn our attention to pages 29 to 86 of the paper book, where the bank statements were placed demonstrating the cash deposits out of the cash withdrawals. The Id. AR before us has also filed the details of all the bank deposits and the cash withdrawals and deposits out of cash withdrawals during the year under consideration.

9. On the other hand, the Id. DR vehemently supported the order of the authorities below.

10. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, there were deposits in the different bank accounts of the assessee in the year under consideration amounting to Rs. 83,51,850/-, whereas the AO has picked up only part of the cash deposits amounting to Rs. 34,41,289/- only. As such, there is no clarity arising from the order of the authorities below regarding the part of the cash deposit which was treated as unexplained cash credit in the hands of the assessee. As such, we find that the revenue has taken contrary stand by treating part of the cash deposits as unexplained u/s 68 of the Act and by treating part of the cash deposits as explained cash credit. Even at the time of hearing, the Id. DR could not bring anything contrary to the arguments advanced by the Id. AR for the assessee. Thus, on this count alone, to our understanding, no addition u/s 68 of the Act in the given facts and circumstances of the case is warranted.

10.1 Moving further, we note that the assessee before the Id. CIT(A) has contended that all the cash deposits were out of the cash

withdrawals. The assessee, in support of his contention, has also filed the bank statements and other details. This fact can be verified from the submission made by the assessee before the authorities below. Nevertheless, the Id. CIT(A) without pointing out any error in the statement and the documents furnished by the assessee has upheld the order of the AO by observing that there were no supporting documents furnished despite all the necessary information were filed before him. It is also pertinent to note that there is no finding given by the authorities below that the cash withdrawals by the assessee have been used for any other purposes, such as investment, personal expenses etc. In the absence of such information, we can presume that the cash withdrawals by the assessee were very much available with the assessee, which was further redeposited in the bank. Accordingly, we set aside the order of the Id. CIT(A) and direct the AO to delete the addition made by him. Hence, ground of appeal raised by the assessee is allowed.

11. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in court on 22<sup>nd</sup> day of July, 2024

Sd/-

**(GEORGE GEORGE K)**  
Vice President

Bangalore,  
Dated, 22<sup>nd</sup> July, 2024

vms

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

Sd/-

**(WASEEM AHMED)**  
Accountant Member

By order

Asst. Registrar, ITAT, Bangalore