

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No. 592/M/2024
Assessment Year: 2017-18**

Mr. Amit Suresh Kodoth B-1, 101, Omkar CHS. Chikuwadi, Near Link Road, Shimpoli Road, Borivali (West), Mumbai- 400092. PAN: AVYPK3682M	Vs.	ITO 41(4)(1) Kautilya Bhavan, Mumbai.
(Appellant)		(Respondent)

Present for :

Assessee by : Shri Jitendra Singh, A.R.

Revenue by : Shri R. R. Makwana, SR. D.R.

Date of Hearing : 20 . 06 . 2024

Date of Pronouncement : 25 . 07 . 2024

O R D E R

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short] vide DIN & Order No. ITBA/APL/S/250/2023-24/1058793123(1) Dated 15/12/2023 for the Assessment Year 2017-18.

2. Following grounds of appeal have been raised by the appellant:

“Based on the facts and in the circumstances of the case, Amit Suresh Kodoth (hereinafter referred to as the Appellant) craves leave to prefer an appeal against the order dated 15th December, 2023 passed by the Commissioner of Income-tax (Appeals) Addl/JCIT (A)-5, Kolkata (hereinafter referred to as the 'learned CIT(A)'] under section 250 of the Income-tax Act, 1961 (hereinafter referred to as the 'Act'), on the following grounds, each of which are without prejudice to one another.

On the facts and in the circumstances of the case and in law the learned CIT(A) has:

Addition under section 69A of the Act for cash deposited in Bank

1. *erred in affirming the action of the learned AO of making addition to the extent of Rs.5,99,553/- under section 69A of the Act with regards to cash deposited for payment of Credit card bills as unexplained money,*
2. *erred in not appreciating the submission made by the assessee that the said cash was sourced by his wife ('fiancee' then) of the assessee.*

The Appellant craves leave to add, amend, delete, rectify, substitute and modify any of the aforesaid grounds or add a new ground or grounds at any time before or at the time of hearing before the Hon'ble Income-tax Appellate Tribunal.”

3. The facts of the case, in brief, are that the assessee is a cinematographer and working on multiple platforms like films, T.V. commercial, music videos and shots. During the assessment year under consideration, the assessee has shown 'Income from business

and profession' and also 'Income from other sources.' During the course of assessment proceedings, the AO noticed that the assessee had made following payments in cash against the outstanding amounts due on his credit cards: -

Date	Credit Card Name	Amount
28/08/2016	Standard Chartered Credit Card	1,00,000
17/09/2016	Standard Chartered Credit Card	3,25,000
18/10/2016	Standard Chartered Credit Card	49,453
01/09/2016	SBI Credit Card	55,100
03/10/2016	SBI Credit Card	55,000
25/10/2016	HDFC Credit Card	15,000
	Total	5,99,553

4. The Assessing Officer then asked the assessee to explain the source of these cash payments. In response to that, the assessee submitted that he had made cash payments of Rs.4,74,453/- on different dates against outstanding dues of the credit card of Standard Chartered Bank. However, as per the information received from AIR, the assessee had made cash payment of Rs.5,17,000/- through the same credit card of Standard Chartered Bank. The Ld. AO, therefore, concluded that the total credit card payment made by the assessee was at Rs.6,42,100/-. The Ld. AO, therefore, added a sum of Rs.6,42,000/-

as the income of the assessee u/s. 69A of the Income Tax Act.

Aggrieved by the addition made by the Ld. AO, the assessee filed appeal before the Ld. CIT(A).

5. The Ld. CIT(A), however, restricted the addition to Rs.5,99,553/- on the ground that the assessee had made cash payment of Rs.5,99,553/- only against his credit card dues and couldn't explain the source of that cash deposits.
6. Aggrieved by the order of the Ld. CIT(A) this appeal has been filed. During the appellate proceedings before us, the appellant submitted as under: -

I. Details of Jewellery purchased using Credit Cards:

Sr. No.	Date of Purchase	Purchases from	Credit Card used for purchases	Amount in Rs.
1.	12-Aug-16	Kalyan Jewellers	HDFC	1,20,100
2.	12-Aug-16	Abharan Jewellers	Standard Chartered	2,10,000
3.	12-Aug-16	Bhima Jewellers	SBI	7,250
4.	12-Aug-16	Kalyan Jewellers	SBI	25,000
5.	13-Aug-16	Bhima Jewellers	HDFC	27,000
6.	15-Aug-16	Manubhai Gems Pvt. Ltd.	HDFC	1,18,000
7.	15-Aug-16	Manubhai Gems Pvt. Ltd.	Standard Chartered	1,30,000
8.	07-Sep-16	Kundan Jewellers	Standard Chartered	29,000
			Total	6,66,350

II. Details of Cash withdrawal from Wife Revathi Amit Kodoth

In this regard, the details of cash withdrawn by my Wife from her account are as under:

Sr. No.	Date of Withdrawal	Bank Name	Amount in Rs.
1.	19-Aug-16	Citi Bank	4,00,000
2.	17-Sep-16	Canara Bank	3,70,000
3.	03-Oct-16	Canara Bank	2,00,000
4.		Total	9,70,000

III. Details of cash used for Credit Card Payments

In this regard, the details of cash deposited into Credit Cards for clearing the Credit Card dues are as under:

Sr. No.	Date of Deposit	Credit Card	Amount in Rs.
1.	20-Aug-16	Standard Chartered	1,00,000
2.	31-Aug-16	SBI	55,100
3.	17-Sep-16	Standard Chartered	3,25,000
4.	03-Oct-16	SBI	55,000
5.	18-Oct-16	Standard Chartered	92,000
6.	25-Oct-16	HDFC	15,000
7.		Total	6,42,100

7. The appellant has taken the plea that he was going to get married and had purchased jewellery from the above places and made payment out of the cash withdrawn by his wife (the then fiancée) and the purchases made through credit cards of Standard Chartered Bank, SBI and HDFC

amounting to Rs.6,42,100/- were paid out of cash deposits made by his wife.

The D.R., on the other hand, relied on the order of the Ld. AO and the Ld. CIT(A).

8. We have considered the rival submission and it is found that though, there is no direct correlation between the amount withdrawn from the accounts of the wife of the assessee and the payments made by her against the credit cards due, yet considering the small amount of payment and the relationship between husband and the wife, the explanation offered by the assessee is accepted. Accordingly, the addition made by the AO is deleted.

9. In the result, the appeal is allowed.

Order pronounced in the open court on 25.07.2024.

Sd/-
AMIT SHUKLA
JUDICIAL MEMBER

Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER

Mumbai, Dated: 25.07.2024.

Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.