

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

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA NO. 2641/MUM/2024** : **A.Y : 2017-18**

Saloni Chittranjan Thakkar Vs. Income Tax Officer-4(1)(1),  
72, Sherman, Narayan Dabolkar Mumbai. (Respondent)  
Road, Mumbai 400 006.  
**PAN : AJNPT8682M** (Appellant)

**Appellant by : Shri Pradip Kapasi**  
**Respondent by : Shri Pravin M Chavan**

**Date of Hearing : 01/08/2024**  
**Date of Pronouncement : 07/08/2024**

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER :**

The Assessee has filed this appeal challenging the order dated 23.03.2024 passed by the learned Commissioner of Income Tax (Appeals)-58, Mumbai ('CIT(A)' in short) and it relates to assessment year 2017-18. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of Rs.7,67,500/- relating to unexplained deposit made into the bank account.

2. The assessee is a Non-resident Indian. She filed her return of income for the year under consideration declaring a total income of Rs.2,05,640/-. It was noticed that the assessee has deposited Specified Bank Notes (SBNs) in her bank

account during demonetization period aggregating to Rs.7,67,500/-. When questioned about the same, the assessee submitted that the deposit has been made out of cash kept in hand. Not convinced with the explanation of the assessee, the Assessing Officer added the above said amount of Rs.7,67,500/- as unexplained deposit under Section 69A of the Income Tax Act, 1961 ('Act' for short). The learned CIT(A) also confirmed the same and hence the assessee has filed this appeal.

3. The learned AR submitted that the assessee has made the impugned cash deposits out of cash available in hand. He submitted that the assessee is a Non-resident Indian and she used to visit India frequently. She used to keep cash in hand to meet various cash expenses and medical expenses. Since the Government of India announced demonetization of Rs.500 and Rs.1000 rupee notes, assessee has deposited the entire cash available with her in hand. In support of the claim that the assessee was possessing cash, the learned AR submitted that the assessee has withdrawn a sum of Rs.7,64,500/- during the financial years 2014-15 to 2016-17. This cash along with other cash available in hand was used to make the impugned deposit. Accordingly, the learned AR submitted that the income tax authorities are not justified in making the addition.

4. The learned DR, on the contrary, submitted that the assessee has not proved that the cash withdrawn earlier was available with her. Further, the assessee has mostly withdrawn cash in small amounts like Rs.5,000/-, Rs. 3,000/- etc., most of the times. Hence, it is improbable that the assessee was keeping those cash also in hand.

5. We heard rival contentions and perused the record. The peculiar facts of the present case may be taken note of. The assessee is a non-resident Indian holding Canadian passport. She has also filed her return of income for the year under consideration declaring total income of Rs.2,05,640/-. Her Indian income consisted of Income from other sources only. These facts show that the assessee was having some source of income in India. The assessee has maintained a bank account with Bank of Baroda and she has withdrawn cash from it. The aggregate amount withdrawn during the three year period is given below:-

Financial year 2014-15	-	3,73,000
Financial year 2015-16	-	1,33,500
Financial year 2016-17 (before 8.11.16)	-	2,34,000
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		7,40,500
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Accordingly, it was submitted that the assessee has kept cash in her hand in India and they have been deposited into the bank during demonetisation period. However, the tax authorities did not accept the above said explanation.

6. It is not the case that the assessee is maintaining or required to maintain books of accounts. Since the assessee is residing in Canada and since she has been visiting India in intervals, the possibility of holding cash to meet routine expenses and medical expenses, in our view, cannot be ruled out. The only question that arises is with regard to quantum of cash that may be said to be available with the assessee. Since the assessee does not maintain books of accounts, in our view, the same has to be determined in the facts and circumstances of the case. We notice that the assessee has withdrawn cash of Rs.7,40,500/- during the period from 1.4.2014 to 31.10.2016. Out of the same, big withdrawals are Rs.3.00 lakhs on 19.12.2014; Rs.1.00 lakh on 21.07.2015 and

Rs.1.00 lakh on 31.05.2016. The aggregate amount of withdrawal of big amount is Rs.5.00 lakhs. There is no evidence to show that this amount has been spent away. In our view, credit may be given for the above said amount of Rs.5.00 lakhs.

7. The remaining amounts are of small amounts ranging from Rs.500/- to Rs.15,000/- aggregating to Rs.2,40,500/-. The small withdrawals are normally expected to have been spent. However, on a reasonable basis, it can be presumed that the assessee was having cash balance of Rs.1.00 lakh out of the above said withdrawal and also from out of any other source. Accordingly, we are of the view that a sum of Rs.6.00 lakhs may be considered to have been explained by the assessee and the addition should be restricted to the remaining amount.

8. Accordingly, we set aside the order passed by Ld /CIT(A) and direct the AO to grant relief of Rs.6.00 lakhs to the assessee and sustain the addition of remaining amount of Rs.1,67,500/-.

9. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 7<sup>th</sup> August, 2024.

Sd/-  
(ANIKESH BANERJEE)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai, Date : 7<sup>th</sup> August, 2024

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## Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "J(SMC)" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai