

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE SMC BENCH, INDORE

**BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER**

ITA No.271/Ind/2024  
(Assessment Year: 2017-18)

Shri Omprakash Fadnavish, 1, Ranjeet Chouk, Barwani	Vs.	Income Tax Officer, Sendhwa
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: AASPF7616H</b>		
Assessee by	Shri Ashish Goyal, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	08.08.2024	
Date of Pronouncement	09.08.2024	

**ORDER**

This appeal by the assessee are directed against the order dated 13.03.2024 passed by the Commissioner of Income Tax (Appeals), Bengaluru for A.Y 2017-18 which is arising from the assessment orders u/s 143(3) r.w.s. 147 of the Act dated 23.11.2019.

2. Assessee has raised following grounds of appeal:

*1 The Id AO was not justified in passing the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.*

*2 The Id CIT(A) was not justified in confirming the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.*

*3 The Id CIT(A) was not justified in not deciding the grounds of appeal before him.*

*4. The Id CIT(A) was not justified in confirming the addition of Rs. 545000/- as unexplained money u/s. 69A.*

*5. The Id CIT(A) was not justified in confirming the addition of Rs. 89630/- as unexplained money u/s 69C.*

*6 The appellant carves leave to add, amend or modify any of the grounds of appeal.*

3. Brief facts of the case are that the assessee is an individual and filed e-return for Assessment Year 2017-18 on 12.09.2011 declaring income of Rs.3,57,000/-. Case selected for scrutiny through CASS followed by validly serving notices u/s 143(2) and 142(1) of the Act. During the course of assessment proceedings Ld. A.O noticed that the assessee has deposited Rs.15,35,500/- during the demonetization period in the bank account held with ICICI Bank. Assessee was asked to explain the source of alleged sum. It was submitted that source of the alleged deposit is mainly from the

cash withdrawal from the bank out of the loan taken from sister Smt. Kshama Mishra and balance from the accumulated past savings. Ld. A.O after examining the records accepted the claim of the assessee that the cash of Rs.10,10,000/- is out of the withdrawals made from the bank account wherein loan was received from sister but for the remaining amount of Rs.5,45,000/- he made addition for unexplained money u/s 69A of the Act. Further Ld. A.O made addition for notional unexplained expenditure of Rs.89,625/- on account of interest paid by his sister in respect of loan taken by her and given free of interest to her brother.

4. Aggrieved assessee preferred appeal before Ld. CIT(A) but failed to succeed on any of the ground.

5. Now the assessee is in appeal before this Tribunal.

6. So far as the addition for Rs.5,45,000/- is concerned Ld. Counsel for the assessee referred to Instruction No.3/2017 dated 21.02.2017 issued by Central Board of Direct Taxes and submitted that if the tax payer is up to 70 years of age then no verification is

required to be made if cash deposit is up to Rs. 2.5 lakhs. He also submitted that the assessee is aged about 58 years and he is regularly filing the Income Tax Return earning income from Dalali and commission.

7. So far as the unexplained expenditure u/s 69C of the Act at Rs.89630/- is concerned he stated that the alleged addition is merely on surmises and conjectures.

8. On the other hand Ld. Departmental Representative vehemently argued and supported the orders of both the lower authorities.

9. I have heard rival contentions and perused the records placed before me. The first issue for my consideration is regarding the addition made u/s 69A of the Act for alleged unexplained money at Rs.545000/-. The alleged sum was deposited in cash in his bank account during demonetization period. It is claimed that the source of the alleged sum is the accumulated past savings. CBDT vide its instruction No. 3/2017 dated 21.2.2017 has provided Standard

Operating Procedure (SOP) to be followed by the Assessing Officer in verification of cash transactions relating to demonetization and under the Source Specific General Verification Guideline it states that in case individual other than minors not having any business income no further verification is required to be made if total deposit is Rs.2.25 lakhs. In case of tax payers above 70 years the limit is Rs.5 lakhs. In light of these guidelines I notice that the assessee is 58 years old earning income from business and also filing the income regularly. Though there is no specific details about the cash flow on year to year basis, I however taking into consideration the CBDT instructions (*supra*) and also taking into consideration the age of the assessee and the fact that return of income are regularly filed in my view the assessee's claim to the extent of having accumulated cash of Rs.4,45,000/- is accepted. Thus for the remaining amount of Rs.1 lakh addition u/s 69 of the Act is hereby confirmed. Ground No.4 of appeal is partly allowed.

9.1 As far as Ground No.5 regarding addition of unexplained expenditure of Rs.89,630/- I note that assessee has borrowed sum of Rs.15 lakh on 11.5.2016 from his sister namely Smt. Kshama

Mishra for the operation of his mother in law. However the operation of the mother in law could not be conducted and she passed away on 5.5.2016. The assessee withdrew the amount from bank immediately after receiving the loan from his sister and thereafter deposited in the bank account. Ld. A.O on observing that the sister of the assessee took loan from Gruh Finance Company and she paid interest of Rs.89,625/- but merely for the reason that the assessee was not able to respond to the show cause notice it has been treated as unexplained expenditure. It is really surprising that even when complete facts were available before Ld. A.O proving that the assessee's sister took loan for helping her brother for medical emergency and interest expenditure incurred by her is her personal expenditure then how the alleged expenses can be treated as unexplained expenditure in the hands of the assessee. Ld. CIT(A) grossly erred in confirming the action of the Ld. A.O. I therefore reverse the finding of Ld. CIT(A) and delete the addition of Rs.89525/- made u/s 69C of the Act and allow Ground No.5 raised by the assessee.

9.2 Remaining grounds are general and consequential in nature which requires any adjudication.

9.3 In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on 09.08.2024.

**Sd/-**

**(MANISH BORAD)**  
Accountant Member

**Indore, 09.08.2024**

**Dev/Sr. PS**

*Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File*

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*