

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"SMC" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 914/JPR/2024
निर्धारण वर्ष / Assessment Years : 2012-13

Uma Shanker Sharma 9-Ager Bihari Ki Gali, Gopinath Bagh, Vrindavan, Mathura (UP)	बनाम Vs.	The ITO, Ward-2, Bharatpur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AHRPS8754R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Dheeraj Board (C.A.)
राजस्व की ओर से / Revenue by : Smt. Monisha Choudhary (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 07/08/2024
उदघोषणा की तारीख / Date of Pronouncement : 20/08/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal is filed by the assessee aggrieved from the order of the Ld. CIT(A), National faceless Appeal Centre, Delhi dated 28.05.2024 for the assessment year 2012-13, which in turn arise from the order dated 26.11.2019 passed under section 147/144 of the Income Tax Act, [Here in after referred as "Act"] by the ITO, Ward-2, Bharatpur.

2. The assessee has marched this appeal on the following grounds:-

“1. That on the facts and in law, the impugned order passed by the learned CIT (A) sustaining the relevant 'Best Judgment Assessment Order' dated 26/11/2019 passed without jurisdiction by the AO u/s. 147/144 on the total income of Rs. 12,81,700/- is without jurisdiction, unjust and liable to be cancelled.

2. That on the facts and in law, the Id. CIT(A) erred in sustaining issuing of notice u/s. 148 and thereafter further erred in sustaining the re- assessment order passed u/s. 147/144 by the AO, which sustenance of notice u/s. 148 and passing of relevant re-assessment order u/s. 147/144 are unjust and not maintainable in law.

3. That on the facts and in law, the Id. CIT(A) firstly erred in not taking into consideration the explanation and submissions of the assessee that source of cash amounting to Rs. 12,81,700/- deposited by the assessee in his bank account was out of pension income, agricultural income of Rs. 7,50,800/- received in cash, bank withdrawal of cash from his above said bank account and opening cash in hand at around Rs. 4,50,000/- as on 01/04/2011 and thereafter the Id. CIT(A) further erred in sustaining the best judgment assessment order passed whimsically by the AO treating cash amount of Rs. 12,81,700/- as unexplained money u/s. 69A and deeming it as income of A.Y. 2012-13, which not taking into consideration the explanation and submissions, treating of cash amount of Rs. 12,81,700/- as unexplained money and deeming it as income of A.Y. 2012-13 and thereby making addition u/s. 69A at Rs. 12,81,700/- are unjust and in the alternative excessive.

4. That the impugned order passed by the learned CIT (A) sustaining the addition u/s. 69A at Rs. 12,81,700/- and deeming it as income of A.Y. 2012-13 is void and not maintainable in law as it has been passed without providing opportunity of being heard to the appellant assessee.

5. That the Id. CIT (A) erred in sustaining the best judgment assessment order passed by the AO treating the cash deposited in bank account of the assessee for subject assessment year as unexplained money and deeming it as income of A.Y. 2012-13 without discharging the burden of proof which squarely lay upon him for treating the cash deposited at Rs. 12,81,700/- in bank as unexplained money and deeming it as income of A.Y. 2012-13 and consequently adding the same in the total income of the assessee under section 69 A r.w.s. 115 BBE of the I.T. Act.

6. The appellant craves leave to add, alter, amend and or substitutes one or more grounds of appeals.”

3. The fact as culled out from the record is that the assessee has deposited cash amount of Rs. 12,81,700/- in his bank account held with State Bank of Bikaner & Jaipur during the Financial Year 2011-12 relevant to Assessment Year 2012-13. The assessee has not filed his return of income for A.Y. 2012-13, thus, Id. AO noted income to the extent of Rs. 12,81,700/- has escaped assessment. Therefore, after recording of reasons for initiating proceedings u/s 147 of the IT Act, 1961 and obtaining prior approval of the Pr. Commissioner of Income Tax, Alwar notice u/s 148 was issued to the assessee on 27.03.2019 requiring him to file his income tax return within 30 days.

3.1 The assessee has not filed his return of income in compliance to notice u/s 148 issued on 29.03.2019, therefore notice u/s 142(1) of the Income Tax Act was issued to the assessee on 30.04.2019 requiring him to furnish documents / details on or before 20.05.2019. But the assessee did not comply with this notice and has not filed required documents / details. Various notices were issued to the assessee but same not complied with.

3.2 Thus, Id. AO noted that the assessee is intentionally avoiding compliance to notices issued u/s 142(1) of the IT Act, 1961 as well as show cause notice. As per provisions of section 144(1)(b) of the income tax Act, 1961 if the assessee fails to comply with all terms of notice issued u/s 142(1) the assessing officer has to make the assessment of the total income to the best of his judgment after taking into account all the relevant material gathered by him. In view of provisions of section 144(1)(b) of the IT Act and for the failure on part of the assessee to comply with all terms of notice issued u/s 142(1) of the I.T. Act, the assessing officer is proceeded with completion of 'Best Judgment Assessment'.

3.3 The Ld. AO noted that the assessee has deposited cash amount to Rs. 12,81,700/- in his bank account held with State Bank of Bikaner & Jaipur and has offered no explanation about nature and source of cash deposits amounting to Rs. 12,81,700/- made during the F.Y. 2011-12 relevant to A.Y. 2012-13, the said amount remained unexplained and was treated as unexplained money u/s 69A of the IT Act, 1961 and is deemed to be the income of the assessee for the AY 2012-13.

4. Aggrieved by the above order of the Assessing Officer the assessee preferred an appeal before the Id. CIT(A). After perusing the submissions of the assessee, the Id. CIT(A) has dismissed the appeal of the assessee. The relevant finding of the Id. CIT(A) is as under:-

“Decision: I have carefully considered the facts of the case, old submission as well as gone through the observation and findings of the AO 's assessment order. Since no written submission against the grounds as enumerated in grounds of appeal, is filed by the appellant despite availing multiple opportunity of hearing dated 20-01-21, 10-05-24 etc. the appeal relating to the grounds are disposed on merit i.e. based on materials available on records.

I find from the grounds of appeal vis-à-vis statement of facts that the appellant claimed the AO has made erroneous addition based on erroneous information and the same proceedings being bad in law. But the appellant is unable to submit any written documents in support of its claim and in course of appeal proceeding the attitude of non compliance on the part of the appellant reveal the said claim of appellant being unacceptable .It is observed from the assessment orders that despite availing ample opportunity in assessment stage neither the appellant nor its authorized representative could have provided any acceptable satisfactory evidence against the show cause notice issued for the proposed addition made in the year under consideration.

In course of appeal proceeding also neither any adjournment letter nor any reasons assigned for either non filing of income tax return or non filing any compliance against the multiple notices issued by the AO during the course of assessment.

In view of that considering the entire conspectus of the case I am of opinion that despite availing adequate opportunity the appellant is unable to give satisfactory explanation with corroborating evidence regarding the cash deposit of Rs. 12,81,700/-. Accordingly, I do not find any infirmity in the order of the AO and find the same was justified in as much as the additions of Rs. 12,81,700/- has been made invoking

provision of section 69A of the I.T Act, being made in accordance with law. Considering the entire conspectus of the case I hold that the appellant has no proper explanation regarding the cash deposit of Rs. 12,81,700/-. Accordingly addition made by the AO of Rs. 12,81,700/-on account of unexplained cash deposit stand confirmed and the grounds relating to these issues are dismissed.

Regarding the other grounds since neither any written submission made either by the appellant or by any authorized representative of it, nor any adjournment letter is furnished by either of them, the remaining grounds need not necessarily be adjudicated and hence dismissed.

In the result, the appeal of the appellant is dismissed.”

5. As the assessee did not receive any favour from the appeal so filed before Id. CIT(A). The present appeal filed against the said order of the Id. CIT(A) before this tribunal on the grounds as reiterated in para 2 above. To support this contention the Id. AR of the assessee filed the written submission and following evidence:-

S. No.	Nature of paper document	Page no.
1.	Written submissions	1-5
2.	Annexure to written submissions containing a list of some of judicial pronouncements referred to and relied upon by assessee in addition to judgments mentioned, if any, in the written submission.	6-8
3.	Brief facts of case	9-9
4.	Copy of assessment order of immediately preceding assessment year 2011-12 passed by the then AO in the case of appellant himself.	10-11
5.	Copy of title deed of agricultural land owned and possessed by the assessee.	12-16
6.	Copy of form 26 AS of the assessee for FY 2011-12 relevant to subject assessment year.	17-20
7.	Copy of assessee's profile of income tax portal.	21-22
8.	A statement in the form of computation of total income of the assessee for AY 2012-13	23-24

5.1 The written submission so filed reads as under:-

“ Before making submissions in above regard the appellant craves leave to furnish the facts of the case separately and simultaneously.

GROUND OF APPEAL No. 1

In this ground of appeal it is claimed by the appellant that the impugned order passed by the Id. CIT(A) as well as relevant assessment order passed by the ITO, Ward 2, Bharatpur are without jurisdiction and accordingly liable to be vacated. In support of this ground of appeal it is respectfully submitted as under-

1. That as per Income-tax Portal the address of the assessee is: 9 Agar Bihari Ki Gali, Vrindaban S.O.Vrindaban Bangar, Mathura, 281121, India. Similarly as per Annual Tax Statement of Income Tax Department on Form 26AS the address of the assessee is: 9 Agar Bihari Ki Gali, Gopinath Bag, Vrindaban, Mathura, Uttar Pradesh.
2. That, as per abovementioned address of the assessee the territorial jurisdiction of the appellant vests with the Income Tax Officer of the state of Uttar Pradesh, India and not with the Income-tax Officer, Ward 2, Bharatpur Rajasthan who passed the relevant assessment order nor with the CIT(A) who passed the impugned order u/s. 250 of the I.T. Act against which the assessee is in appeal before the hon'ble Tribunal.
3. In support of above submissions the appellant craves leave to refer to and rely upon some judicial pronouncements mentioned in annexure to these written submissions
4. That under above circumstances the impugned order is void in law and liable to be vacated.

GROUND OF APPEAL No.2

This ground of appeal is against sustaining by the Id. CIT(A) action of the AO for initiating reassessment proceedings u/s. 147, issuing notice u/s. 148 and consequently passing by the AO the relevant assessment order adding an amount of Rs. 12,81,700/- in the total income of assessee. In support of this ground of appeal it is respectfully submitted as under-

1. That the re-assessment proceedings have been initiated on the basis of details available on AST that assessee has deposited cash amount of Rs. 12,81,700 in his bank account. In this regard it is submitted that it is a settled position of law that notice u/s. 148 cannot be issued on borrowed satisfaction.
2. That the Id. CIT(A) should have cancelled the notice u/s. 148 as well as the relevant - assessment order because by reading the reasons to belief it clearly comes out that the AO has acted on mere suspicion and conjectures and he was not sure that such cash amount deposited in Bank account represented concealed income of the assessee. The consensus of judicial opinion has been that if reasons recorded per- se reflect that the matter requires detailed

investigation and further verification then such reason at the most can be categorized that A.O. has reasons to suspect and not reason to believe that income chargeable to tax has escaped assessment rendering the re-assessment proceedings all the more vulnerable. In this relation assessee places reliance on (1) Dharkeshwari Cotton Mills Ltd. Vs. CIT 26 ITR 775, (2) Omar Salay Mohammed Vs. CIT 37 ITR 151 and (3) Lal Chand Bhagat Ambica Ram Vs. CIT 37 ITR 288.

3. That the Indian Courts including the Apex Court have time and again held that action u/s.147 of the I.T. Act 1961 cannot be taken for reopening assessment if the information is wholly vague, indefinite, far-fetched and remote. The courts have also held that there must be a live link or close nexus between the material coming to the knowledge of the A.O. and the formation of his belief.

4. That the Id. CIT(A) failed to consider that the assessee is a senior citizen, a retired govt. employee, regularly getting a handsome amount of pension from Govt. and regularly making cash withdrawals from his Bank account where pension is regularly deposited. Besides he owned and possessed a good chunk of agriculture land and earned an agriculture income of Rs. 7,50,800 in cash in the previous year relevant to subject assessment year.

5. In support of above submissions the appellant craves leave to refer to and rely upon some judicial pronouncements mentioned in annexure to these written submissions

GROUND OF APPEAL No.3,4 & 5

These grounds of appeal are against sustaining by the Id. CIT(A) action of the AO of treating cash deposited in bank account on different dates amounting to Rs.12,81,700 as un explained money, deeming it as income of subject assessment year and adding the same in total income of the assessee u/s. 69A of the I.T. Act. In support of this ground of appeal it is respectfully submitted as under.-

1. As regards total cash deposited at Rs. 12,81,700/- by the assessee in his bank account with State Bank of Bikaner and Jaipur during F.Y. 01/04/2011 to 31/03/2012 relevant to subject assessment year it is submitted that in the relevant previous year assessee made total cash withdrawal of Rs. 13,00,000/- on different dates and corresponding total amount of cash deposited in the bank account during the relevant previous year amount to Rs. 12,81,700/-.

2. The date wise position of cash withdrawal from the bank and cash deposited in bank in F.Y. 2011-12 relevant to A.Y. 2012-13 is as under:-

S.No	DATE	Cash Withdrawal (In Rupees)	Cash Deposit (In Rupees)	S.No	DATE	Cash Withdrawal (In Rupees)	Cash Deposit (In Rupees)	S.No	DATE	Cash Withdrawal (In Rupees)	Cash Deposit (In Rupees)
1	09/04/2011	10,000	-	16	24/06/2011	20,000	-	31	21/09/2011	60,000	-
2	11/04/2011	40,000	-	17	25/06/2011	40,000	-	32	26/09/2011	-	50,000
3	19/04/2011	40,000	-	18	27/06/2011	120,000	-	33	01/11/2011	20,000	-
4	02/05/2011	5,000	-	19	02/07/2011	-	7000	34	04/11/2011	10,000	-
5	16/05/2011	-	1,20,000	20	08/07/2011	-	1,00,000	35	29/11/2011	-	40,000
6	23/05/2011	1,10,000	-	21	12/07/2011	88,000	-	36	07/12/2011	55,000	-
7	24/05/2011	-	1,05,000	22	22/07/2011	2,00,000	-	37	13/12/2011	20,000	-
8	30/05/2011	-	5,000	23	22/07/2011	-	2,00,000	38	23/12/2011	10,000	-
9	31/05/2011	-	7,700	24	08/08/2011	80,000	-	39	28/12/2011	10,000	-
10	01/06/2011	2000	-	25	16/08/2011	1,28,000	-	40	23/01/2012	10,000	-
11	03/06/2011	-	4,74,000	26	17/08/2011	-	1,28,000	41	21/02/2012	15,000	-
12	07/06/2011	1,00,000	-	27	20/08/2011	15,000	-	42	12/03/2012	15,000	-
13	11/06/2011	10,000	-	28	27/08/2011	25,000	-	43	19/03/2012	5,000	-
14	21/06/2011	30,000	-	29	30/08/2011	2,000	-	TOTAL		13,00,000	12,81,700
15	22/06/2011	5,000	-	30	15/09/2011	-	45,000				

3. In addition to above humble appellant is giving herein below Cash flow statement for the previous year ended on 31/03/2012 relevant to subject assessment year which is as under:-

MONTH	OP. BALANCE	CASH WITHDRAWAL	CASH DEPOSIT	CLOSING BALANCE
April	4,50,000	90,000	-	5,40,000
May	5,40,000	1,15,000	2,37,700	4,17,000
June	4,17,300	3,27,000	4,74,000	2,70,000
July	2,70,300	2,88,000	3,07,000	2,51,000
August	2,51,300	2,50,000	1,28,000	3,73,300
September	3,73,300	60,000	95,000	3,38,300
October	3,38,300	-	-	3,38,300
November	3,38,300	30,000	40,000	3,28,300
December	3,28,300	95,000	-	4,23,300
January	4,23,300	10,000	-	4,33,300
February	4,33,300	15,000	-	4,48,300
March	4,48,300	20,000	-	4,68,300
TOTAL		13,00,000.00	12,81,700.00	

Note: It is clear from the above statement that total cash deposited at Rs. 12,81,700 in bank is less than the total cash withdrawal made from the bank during the previous year relevant to subject assessment year.

4. That as regards source of deposit of cash sum of Rs. 12,81,700 in Bank account in the previous year relevant to subject assessment year 2012-13 it is respectfully submitted that the appellant, an individual, is presently aged about 75 years. He retired from the state government service as a teacher. In the relevant previous year assessee has 2 sources of income. First source of income is pension income of Rs. 2,18,404/- and the second source is Income from agriculture. It is submitted that the assessee owns and possesses since the year 2000 under a family arrangement an irrigated and fertile agriculture land situated at village Rajpur Bangar, Vridavan Pargana, Mathura (U.P.) measuring about 4 bigha which is used for the purpose of farming and in the relevant previous year assessee earned in cash Rs. 7,50,800/- as agriculture income. Accordingly the total income of the assessee in the relevant previous year is Rs. 9,69,204/- (income from agriculture Rs. 7,50,800/- plus income from pension Rs. 2,18,404/-).

5. The whole of the agriculture income of Rs. 7,50,800/- was received in cash and the same was deposited in appellants bank account held with state bank of Bikaner and Jaipur on various dates as mentioned in the chart given at Point No. 2 above. Besides, the appellant had an opening cash balance in hand amounting to Rs. 4,50,000/- being the amount remaining with him as on the opening day of relevant previous year i.e. 01/04/2011 out of past years' salary income, pension income, agriculture income and sale of land etc. In other words he had total cash of Rs. 12,00,800/- (agriculture income of F.Y. 2011-12 amounting to Rs. 7,50,800/- plus opening balance of Rs. 4,50,000/- as on 01/04/2011) In the relevant previous year with him which was deposited in bank account. In addition to it the total pension income of Rs. 2,18,404/- for the previous year ended on 31/03/2012 relevant to subject assessment year was also directly credited in his bank account. From the perusal of chart of cash withdrawal from the bank and cash deposited in the bank given in point no. 2 above, the hon'ble bench will please find that total cash deposit of Rs. 12,81,700/- during the relevant previous year is less than the cash withdrawal of Rs. 13,00,000/- made from the bank in the relevant previous year. Thus, it is explained that the assessee deposited cash sum of Rs. 12,81,700/- in his bank account out of opening cash balance in hand at Rs. 4,50,000/- as on the first day of relevant F.Y. 2011-12 ie 01/04/2011 plus agricultural income received in cash at Rs. 7,50,800/- during relevant previous year and cash withdrawals made from his bank account during the relevant previous year from time to time as per details given in para number 2 above.

6. That the adverse observations made by the A.O in the relevant assessment order for treating the above said amount of Rs 12.81,700- as unexplained money of the assessee and adding the same in the total income of the assessee u/s.69A of the I.T. Act and later on confirmed by the Id. CIT(A) are based on surmises and conjectures. Legal consensus in this regard is that the additions based on suspicion should not be sustained.

7. That the learned AO failed to discharge the burden of proof which squarely lay upon him for describing the cash deposited in bank accounts aggregating to Rs. 12,81,700 as unexplained money. In support of treating the cash deposit made by the assessee in its bank accounts as unexplained money there is not a single evidence with the AO in its support. The consensus of judicial opinion in this regard is that there must be some concrete evidence with the AO as to how and on what basis and on what material in hand he is treating it as unexplained.

8. That before sustaining the above mentioned additions the learned CIT(A) failed to appreciate that before making additions no enquiries were made by the A.O. That before sustaining the above mentioned additions the learned CIT(A) ought to have

9. That before sustaining the above mentioned additions the learned CIT(A) ought to have appreciated that the A. O, did not serve on assessee any show cause notice to the above effect before making additions.

10. It is respectfully submitted that it is not the case of revenue that cash withdrawal made from time to time by the appellant from his bank account has been invested or utilized somewhere else.

11. That in the immediately preceding financial year 2010-11 relevant to assessment year 2011- 12 having almost identical issues and similar facts and circumstances the assessee had deposited cash amounting to Rs. 13,95,000 in his Savings Bank Account with SBBSJ. Vrindavan, Mathura (Utter Pradesh) and on the basis of information available with the department online on NMS under transaction code 001 deposit cash of Rs. 10,00,000/- or more in a saving bank account, proceedings u/s. 147/148 were initiated. Assessee furnished requisite information and details as required during the course of assessment proceedings. The A.O. after Inter alia observing, "assessee also withdrawal from his bank account around Rs. 15,25,000/- from time to time. Assessee has received cash income from agriculture around of Rs. 10,03,000/-. Except this the assessee has also opening cash balance around Rs. 4,00,000/- from his old cash withdrawal and agriculture income. The assessee is a retired government employee so he has regular pension income. Except this he has agriculture income and some interest income which has already been shown in ITR returned income of Rs. 1,59,700/- was accepted and no addition what so ever was made in the total income of the assessee.

12. In view of above mentioned respectful submission it is humbly prayed that addition of Rs. 12,81,700/- made by the A.O. u/s. 69A of the Act and sustained by the learned CIT(A) may very humbly be deleted.

13. In support of above submissions the appellant craves leave to refer to and rely upon some judicial pronouncements mentioned in annexure to these written submissions

GROUND OF APPEAL NO. 6

This ground of appeal is of consequential in nature and may kindly be decided accordingly."

6. The Id. AR of the assessee submitted that the Id. AO has no jurisdiction to assessee the income of the assessee, as the assessee profile itself suggest that the same should have been

assessed by the ITO of Uttar Pradesh and not of Rajasthan. To drive home to this contention he relied upon the online profile and 26AS wherein that aspect as argued is appearing and the reasons for non-compliance is also on account of the address. The Id. AR of the assessee submitted that the assessee on various dated withdrawal of Rs. 13,00,000/- whereas deposit is only 12,81,700/- so the same itself withdrawal and redeposit cannot be added by making the total of it. Before the Id. CIT(A) the assessee explained the cash flow chart as it is available at page 8 & 9 in the order of the Id. CIT(A) even though the Id. CIT(A) noted that the assessee has not filed any submission. The assessee is a state government employee and is at the age of 75 years of age he has kept the cash withdrawal out of his regular income and that has been deposited and the cash withdraw is more than cash deposited. Though the Id. CIT(A) even though submitted all the details not given any finding and the order of the Id. AO is bad on legal grounds as well as on merits of the case when the same assessing officer while considering the income tax assessment for A.Y. 2011-12 considered the aspect of having cash deposit and withdrawal why not in the year under consideration. Based on those aspect of the matter the Id. AR of the assessee submitted that the appeal of the

assessee be decided considering the super senior citizen age of the assessee instead of set aside.

7. Per contra, the Id. DR supported the order of the Id. CIT(A), the submission of the assessee was not in accordance with the grounds and the assessee choose not to avail the opportunity of being heard the Id. CIT(A) rightly dismissed the appeal of the assessee.

8. We have heard both the parties and perused the materials available on record. The bench noted that on the similar reason the case of the assessee was re-opened wherein the case was re-opened based on the information with the revenue that in this case cash deposit of more than 10 lacs was deposited. Consequent to the re-assessment proceeding the returned income of Rs. 1,59,700/- was accepted. In that year also the assessee has deposited a sum of Rs. 13,95,000/- and the source of cash deposited considering from the withdrawal and agricultural income. In that cash the Id. AO considering the opening cash balance of Rs. 4 lac with the assessee. That assessment order in that year was completed on 18.10.2018. Just after 13 months the assessment order u/s. 144 of the Act was passed on 26.11.2019 which is under appeal before us.

9. As it is evident from the order of the Id. CIT(A) that the assessee submitted all the required details before the Id. CIT(A), including the details income for the year under consideration at page 8 to 11 of his order. Even though the Id. CIT(A) preferred to state that the assessee is noncompliance, this may be for the reasons best known to him. Since the facts mentioned in the order of the Id. CIT(A) has not been disputed by the Id. AO through the Id. DR we considered that facts as correct.

10. Ground no. 3, 4 & 5 raised by the assessee are in relation to the addition of the Rs. 12,81,700/- made in the hands of the assessee as unexplained money as per provision of section 69A of the Act. The assessee submitted that for the year under consideration his income from all the sources is below the maximum amount not chargeable to tax and as submitted before the Id. CIT(A) that in the year under consideration the assessee has received a pension income of Rs. 2,18,404/- and agricultural income of Rs. 7,50,800/-. [last year Id.AO accepted the agricultural income of Rs. 10,03,000/- page 13 of the paper book being the assessment order for A. Y. 2011-12] . Before the Id. CIT(A) the assessee submitted a statement of date wise withdrawal of the amount from the bank in cash and date wise

deposit of cash into the bank account. The total of withdrawals comes to Rs. 13,00,000/- and deposit comes to Rs. 12,81,700/-. Even the assessee is having the opening cash balance as on 01.04.2010 for an amount of Rs. 4 lac. The assessee has earned income of Rs. 9,69,204/- [Rs. 218,404/- pension and agricultural income of Rs. 7,50,800/-] plus opening balance of Rs. 4 lac all are sufficient to cover the deposit of cash into the bank account even if the cash withdrawal is not considered for re-deposit in to the bank account. Based on these observations ground no. 3, 4 & 5 raised by the assessee is allowed.

11. Ground no. 1 & 2 challenge the legality of the assessment on technical grounds. Since we have considered the appeal of the assessee on merits the technical ground raised becomes educative in nature and are not decided.

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

Order pronounced in the open Court on 20/08/2024.

Sd/-

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

(राठौड़ कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 20/08/2024

***Santosh**

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

1. अपीलार्थी / The Appellant- Uma Shanker Sharma, Mathura(UP.)
2. प्रत्यर्थी / The Respondent- ITO, Ward-2, Bharatpur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 914/JPR/2024 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar