

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**  
**&**  
**SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 155/Mum/2024**  
**Assessment Year: 2017-18**

<b>Ruksana Suleman Chamadia</b> Flat No. 10, Kanti Mahal CHS, Telli Park Road Andheri East Mumbai - 400069 <b>[PAN: ABLPC9149G]</b>	Vs	<b>Income Tax Officer, Circle</b> <b>42(1)(1), Mumbai</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>

Assessee by :	Shri Ashok Mehta, A/R
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 27/08/2024  
घोषणा की तारीख/Date of Pronouncement : 29/08/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM :**

This appeal by the assessee is preferred against the order dated 24/11/2023 by National Faceless Appeal Centre, Delhi [in short 'ld. CIT(A)], pertaining to AY 2017-18.

2. The solitary grievance of the assessee is that, the ld. CIT(A) erred in confirming the addition of Rs.15,80,000/- made u/s 69A of the Act in respect of deposit in bank account read with provisions of Section 115BBE of the Act.

3. Briefly stated the facts of the case are that the assessee electronically filed her return of income on 30/03/2018 declaring total income of Rs. 10,00,000/-. The return of income was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee. The assessee is an individual employed with

M/s. Gujrat Gaurav Inn Hotels Private Limited and is deriving income from salary and income from other sources.

4. During the course of scrutiny assessment proceedings, the AO noticed that the assessee has deposited cash of Rs.15.80 Lakhs in her savings bank account with Janaseva Sahakari Bank Limited, during the demonetization period. The assessee was asked to explain the source of the cash deposited.

4.1. The assessee in her reply stated that the cash in the bank account is the money she received from the company run by her husband. It was the money repaid by the hotel which is against the loan given by her husband to the hotel. It was explained that cash was withdrawn from the bank account and kept at home due to health reasons and the fact that there were disputes in her family after death of her husband. The assessee furnished cash statement, bank statement and also prepared cash book to explain the source of cash deposit in the bank.

4.1.1. The reply of the assessee was considered by the AO who could not believe the possession of the physical cash at home for about twenty months before deposit in the bank account. The AO further observed that the returned income of the assessee also does not justify the amount deposited in the bank. The AO was of the firm belief that the assessee has not discharged the onus cast upon it by the provisions of Section 69A of the Act and added Rs.15.80 Lakhs.

4.2. The assessee carried the matter before the Id. CIT(A) but without any success.

5. Before us, the Id. Counsel for the assessee reiterated what has been stated before the lower authorities and kept on hammering that, the

cash has been deposited out of the money withdrawn from the bank account earlier. The ld. Counsel vehemently stated that nowhere the AO has brought anything to show that the assessee has spent the money and was not in possession of the money withdrawn from the bank. The ld. Counsel once again referred to the bank statements and the cash book prepared to explain the source of deposit. Strong reliance was placed on several decisions of the Co-ordinate Benches in *ITA No. 1599/Mum/2021*, *ITA No. 78/Del/2024*, *ITA No. 788/Ahd/2012*, *ITA No. 5590/Mum/2012*, *ITA No. 75/Rpr/2023*. It is the say of the ld. Counsel that in all these cases, cash were held for several months before deposit in the bank.

5.1. Per contra, the ld. D/R strongly supported the findings of the AO. It is the say of the ld. D/R that no prudent person would keep cash at home when it is safer to keep it with the bank.

6. We have carefully considered the orders of the authorities below and have gone through the documentary evidence brought on record in the light of Rule 18(6) of the ITAT Rules, 1963. Judicial decisions relied upon by the ld. Counsel have been duly considered.

7. There is no dispute that the assessee had withdrawn cash from her bank account. A perusal of the bank statement placed at pages 6 to 10 of the paper book show that the moment any amount is deposited in the bank account, the same is withdrawn immediately. The contention of the ld. Counsel for the assessee that this amount is withdrawn immediately for the safe custody at home, is against the principles of preponderance of probabilities because, money is safer in the bank rather than at home. Moreso, when the assessee was not having civil

relationship with her sons and other family members after the demise of her husband. On the one hand, the Id. Counsel contends that after the demise of her husband, she was not treated humanely by her sons whereas, we find that on 13/08/2015, the assessee gave Rs.21,00,000/- to Jishan Chamadia and Rs. 14,00,000/- was given to Jibran Chamadia on 28/11/2016, both being her sons. Whatever lumpsum has been withdrawn through the bank, has been forwarded to her sons by the assessee, leaving the availability of cash with her, negligible.

8. The Hon'ble High Court of Calcutta in the case of *CIT vs. United Commercial & Industrial Co. Pvt. Ltd.* (187 ITR 596), has held that the primary onus lies on the assessee to prove the nature and source of credits in its accounts. Since the returned income of the assessee is Rs.10,00,000/-, the onus was squarely on the assessee to bring cogent material evidence on record to show the source of huge cash deposit in her bank account. The two deposits of Rs.20,00,000/- have been received from M/s. Gujarat Gaurav Inn Hotels Pvt. Ltd., which allegedly she has withdrawn from her bank. Then out of these withdrawals, she deposited Rs.21,00,000/- and the same was given to Jishan Chamadia. Another Rs. 14,00,000/- was deposited which was given to Jibran Chamadia. So, out of the withdrawals of Rs.40,00,000/-, the assessee has given Rs.35,00,000/- to Jishan Chamadia and Jibran Chamadia. Thus the claim that, the deposits have been made out of her past withdrawals also does not support the contention.

8.1. On such facts, the decisions relied upon by the Id. Counsel, become distinguishable. Moreover, each case is decided on peculiar facts of its own and the facts of the withdrawals *qua* the deposit in the

present case, has been discussed hereinabove. Considering the facts of the case in totality, we are of the considered view that the assessee has grossly failed in discharging the initial onus cast upon it. Accordingly, the effective grounds raised by the assessee are dismissed.

9. In the result, appeal of the assessee is dismissed.

**Order pronounced in the Court on 29<sup>th</sup> August, 2024 at Mumbai.**

*Sd/-*  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

*Sd/-*  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated 29/08/2024

*S.S.P.*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai