

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.537/Ahd/2024
Assessment Year: 2017-18**

Jagruti Nilesh Shah, A-49, Sampat Park Society, Gotri Road, Nr. Utkarsh School, Vadodara – 390 007 (Gujarat). [PAN – AJKPS 6931 P] (Appellant)	Vs.	Income Tax Officer, Ward – 4(1)(6), Vadodara. (Respondent)
Assessee by	Shri Abbas Saykalwala, AR	
Revenue by	Shri Ramesh Kumar, Sr. DR	
Date of Hearing	14.08.2024	
Date of Pronouncement	29.08.2024	

ORDER

This appeal is filed by the assessee against order dated 30.01.2024 passed by the ADDL/JCIT(A), Panaji for the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal :-

- “1. The learned CIT(A) erred in fact and in law in passing the order against the principle of natural justice.*
- 2. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) has erred in upholding the action of the Ld. Assessing Officer in making addition of Rs.11,00,000/- under Section 69A in respect of the unexplained income disregarding the legal/factual matrix of the case*
- 3. The learned CIT(A) erred law and on facts in confirming the addition made by the AO of Rs.11,00,000/- under Section 69A of the Act despite the that the source of cash deposits was explained to the learned AIO*
- 4. The learned CIT(A) erred in fact and in law in confirming the addition made by the AO of Rs.11,00,000/- under Section 69A without considering the submission made by the appellant.*

5. *The learned CIT(A) erred in fact and in law in confirming the action of learned AO initiating penalty proceedings under Section 271AAC of the Act.”*

3. The assessee was a Bank employee filed return of income on 15.07.2017 declaring total income of Rs.7,96,730/-. The case of the assessee was selected for limited scrutiny for the reason that cash deposits during the demonetisation period. Notice under Section 143(2) of the Income Tax Act, 1961 was issued on 09.08.2018 and notice under Section 142(1) of the Act alongwith questionnaire on 03.05.2019 was issued. A notice under Section 142(1) dated 03.05.2019 was issued to the assessee requesting thereby to submit all the Bank accounts held during the period from 01.04.2016 to 31.03.2017. The assessee furnished the statement of Bank account and further submitted that the funds were received from her retirement benefits. The Assessing Officer observed that the assessee deposited Rs.8,50,000/- on 18.11.2026 in demonetised currency. After taking cognisance of the assessee's reply and the details of the Bank account, the Assessing Officer held that the cash deposits during the demonetisation period was an unexplained income under Section 69A of the Act and, therefore, added Rs.11,00,000/-.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the Assessing Officer has made the addition under Section 69A of the Act despite giving all the details of cash deposits, thereby explaining that the assessee has withdrawn amount of her retirement benefit from time to time during the period 01.04.2016 to 31.03.2017 and also prior to that. The assessee has given explanation that the withdrawal was for first family medical emergency and also given the details establishing that medical emergency occurred in her family. The Ld. AR submitted that all these factual aspects alongwith details were totally ignored by the Assessing Officer as well as by the CIT(A).

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. From the perusal of recourse, it can be seen that the assessee's family had medical

emergency during the period 01.04.2016 to 31.03.2017 and prior to that also the assessee has withdrawn money from her own pensionary benefits and the Department's finding that the said is unexplained appears to be incorrect after verifying the details produced before the Assessing Officer. It is pertinent to note that the assessee has thoroughly explained the details related to the deposits in the Banak account during the demonetisation period which was the same amount which has been withdrawn from time to time for the period 01.04.2015 to 24.10.2016. The casual observation of the Assessing Officer that it is after thought appears to be incorrect and, therefore, the Assessing Officer as well as the CIT(A) was not justified in making this addition.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on this 29th August, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 29th day of August, 2024

*PBN/**

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

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad