

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" SMC " BENCH, AHMEDABAD

श्री टी.आर. सेन्थिल कुमार, न्यायिक सदस्य एवं  
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER  
AND  
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.667/Ahd/2024  
निर्धारण वर्ष /Assessment Year : 2017-18

Keshavlal Chaturdas Patel 11, Anand Nagar Society Manav Ashram Visnagar Road Mehsana - 384 001 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The Income Tax Officer Ward-2 Mehsana
स्थायी लेखा सं./PAN: BIHPP 3886 P		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Shri S.N. Divatia, Advocate
Revenue by :		Shri Ashesh R. Rewar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 18/09/2024  
घोषणा की तारीख /Date of Pronouncement: 25/09/2024

आदेश/ORDER

PER SHRI MAKARAND V. MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 07.02.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)"), under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment Year (A.Y.) 2017-18. The appeal before CIT(A) was

filed by the assessee against the order of the Assessing Officer (hereinafter referred to as "AO") passed u/s 143(3) of the Act.

**Facts of the Case:**

2. The assessee, an individual engaged in agricultural activities on ancestral land (as mentioned in the statement of facts), filed his return of income on 12.03.2018 declaring a total income of Rs.2,73,260/-. The case was selected for scrutiny under CASS, and during the assessment proceedings, it was noted by the Assessing Officer (AO) that the assessee had deposited cash amounting to Rs.12,10,000/- in his Bank of Baroda account during the demonetization period, i.e., the Financial Year (F.Y.) 2016-17 relevant to A.Y. 2017-18. The AO issued notices u/s 143(2) and 142(1) of the Act to the assessee, seeking details and explanations regarding the cash deposits but the assessee failed to respond to the notices issued, and no details or explanations were furnished to the AO. A final show-cause notice dated 01.11.2019 was issued to the assessee, specifying that the cash deposits amounting to Rs.12,10,000/- should be explained, failing which the amount would be treated as unexplained income under Section 69A of the Act. Despite this, no response was received from the assessee. Considering the non-compliance and absence of any satisfactory explanation or documentary evidence, the AO proceeded to complete the assessment under Section 143(3) of the Act on 06.12.2019, determining the total income at Rs.14,83,260/- by treating the cash deposits of Rs.12,10,000/- as income from unexplained sources under Section 69A.

2.1. The assessee filed an appeal before CIT(A) issued multiple notices to the assessee during the appellate proceedings, but there was no compliance.

Given the repeated non-compliance, the CIT(A), dismissed the appeal, upholding the addition made by the AO on the grounds that the assessee had failed to furnish any documentary evidence or submissions to substantiate his claim. The CIT(A) relied on the judgement of the **Hon'ble Punjab & Haryana High Court in Anil Goel vs. CIT [2008] 306 ITR 212 (P&H)**, where it was held that in the absence of any document/evidence, no separate reasons need to be recorded by the appellate authority for affirming the order of the AO.

3. Aggrieved by the order of CIT(A), the assessee is in appeal before us with following grounds of appeal:

*"1.1 The order passed by NFAC, Delhi U/s 250 on 07/02/2024 dismissing the appeal is wholly illegal, unlawful and against the principles of natural justice.*

*2.1 The Id. NFAC has grievously erred in law and or on facts in upholding addition of Rs. 12,10,000/- towards cash deposited into bank account during demonetization period without hearing the appellant who was precluded from submitting the genuine facts of cash deposited out of sale proceed of residential building in the name of wife Smt. Savitaben Keshavlal Patel. Hence addition of Rs.12,10,000/-unwarranted and may be deleted.*

*3.1 That the in the facts and circumstances of the ld. NFAC ought not to have upheld the addition of Rs.12,10,000/- towards cash deposited from known sources.*

*It is, therefore, prayed that the addition of Rs.12,10,000/- upheld by the NFAC may kindly be deleted."*

4. During the course of the hearing before us, the Authorized Representative (AR) of the assessee, argued that the additional evidence now being sought to be admitted is crucial to explain the source of the cash

deposits and that the failure to present these documents earlier was neither deliberate nor willful but due to reliance on a consultant who mishandled the communications. The AR emphasized that the assessee, being a farmer with limited knowledge of tax laws, had relied on his previous consultant, who had changed the email address for communications without the assessee's knowledge, resulting in the non-compliance observed during the appellate proceedings.

4.1. The Departmental Representative (DR) did not object to admission of additional evidence and relied on the order of lower authorities.

5. We have carefully considered the submissions made by the assessee, the orders of the lower authorities, and the additional evidence filed by the assessee. The facts, as narrated, reveal inconsistencies in the statement of activities and sources of income as submitted by the assessee before the CIT(A) and before this Tribunal. The assessee initially declared himself as a farmer engaged in agricultural activities on ancestral land. However, the statement of facts submitted before the CIT(A) indicated that the assessee derived income from the supply of milk, angadia service, and other sources, which was not disclosed earlier.

5.1. It is observed that the AO issued a show-cause notice dated 01.11.2019 proposing to treat the cash deposits of Rs.12,10,000/- in the Bank of Baroda account as unexplained income under Section 69A of the Act. The notice was received by the assessee on 08.11.2019, and the assessee furnished his reply on 30.11.2019, explaining that the cash deposits were sourced from the cash balance on hand as duly reflected in the books of accounts, along with

supporting documents uploaded on the e-proceedings portal. However, it appears that the AO did not consider this reply and the supporting documents while passing the assessment order on 06.12.2019, resulting in the addition of Rs.12,10,000/- as unexplained income.

5.2. The assessee's failure to comply with various notices during the assessment and appellate proceedings is evident from the record. However, the assessee has argued that the CIT(A) failed to consider the additional evidence submitted, which included the sale deed of a property and bank statements showing the source of cash deposits. The assessee has submitted that this additional evidence should be admitted under Rule 46A, as it is crucial for the fair adjudication of the matter.

5.3. We observe that there is a significant contradiction between the nature of the assessee's business as claimed in different proceedings. Before the CIT(A), the assessee stated that he derived income from the supply of milk and angadia services, while before the Tribunal, the assessee's primary activity was cited as agriculture. This inconsistency raises doubts about the credibility of the statements made by the assessee and calls for a thorough examination of the nature of the assessee's business and the sources of cash deposits as claimed. The evidence provided by the assessee in the form of the sale deed and bank statements should also be verified for its authenticity and relevance to the cash deposits under scrutiny.

5.4. Further, it is pertinent to note that principles of natural justice demand that all relevant evidence be considered before arriving at a conclusion. The AO's failure to consider the assessee's reply dated 30.11.2019, which was

uploaded on the e-proceedings portal, constitutes a violation of the principles of natural justice. Such oversight has resulted in an improper adjudication of the assessee's claims. Therefore, we find it imperative that these discrepancies and contradictions, as well as the additional evidence submitted, be properly examined and adjudicated upon by the CIT(A) afresh.

5.5. In light of the above findings, we deem it appropriate to set aside the impugned order passed by the CIT(A) and remand the matter back to the file of the CIT(A) for fresh adjudication. The CIT(A) is directed to verify the nature of the assessee's activities and sources of income as claimed in different proceedings and examine the contradictions therein, admit the additional evidence submitted by the assessee, including the sale deed, bank statements, and books of accounts, and verify their authenticity and relevance to the issue of cash deposits. The CIT(A) is also directed to consider the assessee's reply dated 30.11.2019, which was uploaded on the e-proceedings portal, and adjudicate upon the contentions made therein after providing a reasonable opportunity to the assessee to present his case, including allowing cross-verification of documents, if necessary, and pass a reasoned order in accordance with law.

5.6. The assessee is also directed to fully co-operate with the proceedings before the CIT(A) and ensure timely compliance with all notices. The assessee is further directed to provide complete and accurate information regarding his sources of income and activities, and to submit all relevant documents and evidence in support of his claims within the stipulated time. Any failure to comply with the directions of the CIT(A) may result in adverse consequences as per law.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

**Order pronounced in the Open Court on 25<sup>th</sup> September, 2024 at Ahmedabad.**

**Sd/-  
(T.R. SENTHIL KUMAR)  
JUDICIAL MEMBER**

**Sd/-  
(MAKARAND V. MAHADEOKAR)  
ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 25/ 09/2024

*टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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