

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No. 1458/Ahd/2024
(Assessment Year: 2017-18)

Keshavlal Ishwardas Thakkar, 201, Himalaya Emerald, Nr. IOC Petrol Pump, 132' Ft. Ring Road, Satellite, Ahmedabad-380015 PAN : AAIPT 4684 K	Vs.	Deputy Commissioner of Income-tax, Circle 3(2), Ambawadi, Ahmedabad
(Appellant)	..	(Respondent)

Appellant by :	Shri Rupesh R. Shah, AR
Respondent by:	Shri B.P. Srivastava, Sr DR

Date of Hearing	12.11.2024
Date of Pronouncement	19.11.2024

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

This appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi (hereinafter referred to as "CIT(A)" for short), dated 03.07.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2017-18.

2. The solitary ground taken by the Assessee reads as follows :-

"Both the lower authorities have erred in law and on facts made addition of Rs.52,40,000/- under S. 69 for cash deposited during demonetization period which are supported by documents for source of cash and taxed under S. 115BBE may be deleted in the interest of justice."

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3. The pertinent facts of the case are as under:-

- The Assessee is a 93 years old agriculturist having agricultural land at various pockets of Gujarat.
- The Assessee received a cheque No.8458 dated 19.07.2012 for Rs.20 lakhs on account of proposed sale of land to Shri RM Goti.
- The assessee has also received Rs.5 lakhs on 15.08.2012, Rs.15 lakhs on 28.08.2012, Rs.10 lakhs on 31.01.2013, Rs.6 lakhs on 09.04.2013, Rs.5 lakhs on 18.04.2013, Rs. 5 lakhs on 03.05.2013, Rs.5 lakhs on 26.05.2013, Rs.2 lakhs on 10.06.2013, Rs.4 lakhs on 19.08.2013, Rs.3 lakhs on 25.09.2013 and Rs.5 lakhs on 12.09.2013.
- Further, the assessee received Rs.1 lakh vide cheque No.1420 dated 15.09.2016.
- The said land was finally registered on 15.08.2016

4. Based on the cash deposits found in the bank account of the assessee, an addition of Rs.52,40,000/- has been made by the Assessing Officer u/s 69 of the Act. The addition, being the cash deposited during demonetization period, has been confirmed by the Id. CIT(A).

5. Aggrieved, the Assessee filed appeal before the Tribunal.

6. Heard the arguments of both the parties and perused the records available before us in detail.

7. It is found that the assessee had entered into a transaction for sale of agricultural land in Survey No. 387 (Old Survey Number 215) at Mouje :

Dhinagada Taluka, Bavla District, Ahmedabad for Rs.93,75,000/-, against which the assessee has received cash of Rs. 85 lakhs up to 16.07.2012 and an amount of Rs.8,75,000/- was pending to be paid to the assessee by the seller. Later, the Government issued compulsory acquisition notice vide letter dated 09.04.2013 in which the Government ordered 42% of the land area, which is approximately 4020 sq. mtrs., was to be acquired for the purpose of Ahmedabad-Bhavnagar Express Highway. The notification of the compulsory acquisition is not in dispute. Since, even after receiving the amount of Rs.85 lakhs by the assessee and since the land has not been transferred to the purchaser namely Shri RM Goti, a police compliant has been filed by Shri RM Goti on 18.01.2016, the fact of which is also not in dispute. Post filing of the police compliant, the assessee executed final sale deed on 15.09.2016 for the said land. In the sale deed, the details of the cash payments and cheque payments received by the assessee have been duly mentioned. From the execution of the sale deed, it is clear that the land sold pertains to the same Survey No. 215 for which the original amounts have been received by the assessee and also a part of which has been acquired by the National High Way Authority of India. In this background, the only issue to be decided by the Tribunal remains that whether the assessee could have had the cash received in 2012-13 on account of sale of land to be available and to be deposited in the bank account in 2016. It is the fact that the assessee was about 80 years old at the time of receiving the advances in cash against the sale of land and also Rs.20 lakhs vide cheque dated 19.07.2012. The sale of land is also not in dispute. The sale deed dated 15.09.2016 clearly mentions about the receipt of monies from 2012 to 2016. It is also a fact that the same land, which was proposed to be sold by the assessee, was issued letter of acquisition resulting which the

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assessee had to return the money to the prospective purchaser which he has failed; the action of which led to filing of police complaint and ultimately the land having the said survey number was sold by the assessee to the same prospective customer Shri RM Goti in 2016. It was not a case that Shri RM Goti has disputed the payment of cash to the assessee and hence cash in the hands of the assessee is proved to be a receipt from Shri RM Goti in the year 2013 by the assessee. Since the assessee had to return at any point of time the amount so received in the absence of execution of sale deed, the Assessee had a very reason to keep the cash in his hand. The Revenue's allegation that the assessee should have kept the money in FDs which would fetch higher income and the assessee has not deposited the cash even after registration of the sale-deed can be said to be advisory in nature but not evidentiary in value. Since the fact that the assessee had money in his possession has been proved, it can be considered that the same money has been deposited by the assessee in the month of November 2016 after completion of the registration process. In view of these facts, the addition made by the Assessing Officer of Rs.52,40,000/- under Section 69 is hereby directed to be deleted.

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

The order is pronounced in the open Court on 19.11.2024

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 19/11/2024

btk

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

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आदेश की प्रतिलिपि ँ ग्रेषित / 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)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad