

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1529/Del/2024  
(Assessment Year: 2019-20)**

ACIT, Central Circle-29, New Delhi  (Appellant) <b>PAN:AADHB5670C</b>	Vs.	<b>B. R. Goel and Sons HUF,</b> C-28, Preet Vihar, Nirman Vihar, SE East Delhi- 110092 (Respondent)
--	-----	---

Assessee by :	Shri Anil Jain, CA
Revenue by:	Mr. javed Akhtar, CIT DR
Date of Hearing	14/11/2024
Date of pronouncement	26/11/2024

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.1529/Del/2024 for AY 2019-20, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-30, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 10474/2018-19 dated 12.01.2024 against the order of assessment passed u/s 153A/ 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.09.2021 by the Assessing Officer, DCIT, Central Circle-29, New Delhi (hereinafter referred to as 'Id. AO').

2. The revenue has raised the following grounds of appeal before us:-

*"1. The Ld CIT(A) has erred in deleting the addition made u/s 68/69 of the Act by the assessing officer.*

*2. The Ld. CIT(A) has failed to appreciate in relying upon the decision of the Hon'ble ITAT dated 21.02.2023 wherein the quantum appeal of the assessee has been allowed and the additions made were deleted. The*

*department has not filed further appeal before Hon'ble High Court due to low tax effect.*

*3. The Ld. CIT(A) has failed to appreciate that assessee has tried to explain the source of cash deposit from business of change of torn notes, change of currency from old to new from smaller to big denomination. However, no documentary evidences were provided in support of his claim.*

*4. The Ld. CIT(A) has failed to appreciate that the assessee has not provided even a single document to establish that assessee is doing the business of change of old notes with new one and also of small denomination notes with bigger denomination notes and vice versa.*

*5. The Ld CIT(A) has erred in not appreciating that assessee has failed to provide name and address of the persons to whom assessee has provided the services of change of currency from old note with new one.*

*6. The order of Ld. CIT(A) is erroneous and is not tenable on facts and in law.*

*7. The grounds of appeal are without prejudice to each other."*

3. We have heard the rival submissions and perused the materials available on record. A search and seizure operation was conducted in Sushil Goel and others group on 30-01-2020 and accordingly the case of the Assessee was centralized vide order of Learned Chief Commissioner of Income Tax dated 09-07-2020. The Learned AO observed that during the search operation, Sushil Goel and his family were found involved in the business of sale and purchase of foreign currency as well as his group concerns and entities operated Hawala operating networks on domestic as well as international levels. According to the Learned AO, this group assisted various people in arranging Hawala/money laundering/ telegraphic transfers for all types and in many countries particularly in Dubai, Middle East, China and Hong Kong. The proceedings under Section 153A of the Act stood initiated on the Assessee vide notice issued on 03-02-2021. In response to this notice, the Assessee HUF electronically filed its return of income on 08-04-2021 declaring loss of Rs. 58,866/-.

4. Various details were called for by the learned AO during the course of search assessment proceedings especially with regard to kacchi parchi / diaries where rough jottings were noted and explanations were sought. These details and explanations were furnished by the Assessee. Ultimately, in the search assessment completed under Section 153A read with Section 143(3) of the Act, the learned AO added a sum of Rs. 2,50,88,870/- under Section 68 of the Act on account of cash deposits in Axis Bank account; Rs. 15,70,810/- under Section 68 of the Act being 4% of the amounts credited in the bank account on account of alleged Hawala transactions and Rs 29,27,162/- under Section 69 of the Act on account of alleged return of 12% on the investment. Aggrieved by these additions, the Assessee preferred an appeal before the learned CITA.

5. The Learned CITA proceeded to adjudicate each of the additions made by the Learned AO independently. With regard to addition made in the sum of Rs 2,50,88,870/- on account of cash deposits made in the bank account, the Learned CITA narrated the nature of business carried out by the Assessee HUF, considered the statement recorded from Shri Dalbir Singh, considered the earlier assessment orders and appellate orders framed in the case of the Assessee and also considering the order passed by this tribunal in Assessee's own case for assessment year 2011-12 proceeded to grant relief to the Assessee by deleting the addition. The relevant observations made by the Learned CITA in this regard are reproduced as under:-

*"9. Ground No.6:- In this ground, the appellant has challenged the addition made by the Assessing Officer amounting to Rs.2,50,88,870/- on account of cash credits in the bank account of the appellant. The Assessing Officer has*

*observed in the Assessment Order that the assessee had made cash deposits to tune of Rs.2,50,88,870/- in its bank account No.910020022948018 maintained with Axis Bank Ltd. and further noted that the karta of assessee HUF is Hawala Entry Operator and that he deposited the cash arising from Hawala activities in the bank account of the assessee HUF. The Assessing Officer has observed that in the A.Y. 2011-12 and 2017-18 which were concluded on 27.12.2018 and 30.12.2019 respectively and the additions were*

*made with regard to unexplained cash deposits in the bank account of the appellant in the order u/s. 143(3)/147 of the Act. It was also noted that the addition made by the Assessing Officer was confirmed by Ld. CIT(A) vide his order dated 12.09.2019 in Appeal No.10298/2018-19 and upheld the addition made by the Assessing Officer. The Assessing Officer has further observed that the assessee narrated the same concocted story of his business of exchange of soiled notes with new ones and changing of currency from one denomination to another and linked the cash deposits in the bank account to the said business activities. Accordingly, following the decision of his predecessor AO made the addition of cash deposits made by the appellant in its bank account treating the same as unexplained credit u/s. 68 of the Act.*

*9.1 The appellant submitted that it is engaged in the business of exchanging soiled notes and also changing the currency notes from bigger denomination to smaller denomination for commission. The appellant also referred in the statement of Shri Dalbir Singh which was recorded during the search operation and has been reproduced by the Assessing Officer in the Assessment Order in which Sh. Dalbir Singh. There is no change of the business of the appellant and neither any material was found during the search to suggest otherwise. The nature of the business is such that the appellant need to keep cash in hand to meet the demand of the customers for exchanging of notes and soiled notes are also deposited in the bank account as part of the regular business activities. Accordingly, the cash deposits and withdrawal are the regular business transactions of the appellant and cannot be held to be unexplained*

*9.2 The appellant further submitted that the addition was made by the Ld. Assessing Officer on the basis of Assessment Order in A.Y. 2011-12 which was confirmed by Ld. CIT(A). It was submitted that the said order of Ld. CIT(A) was contested before Hon'ble ITAT and Hon'ble ITAT allowed the appeal filed by the appellant vide its order dated 21.02.2023 and deleted all the additions made by the Assessing Officer in the A.Y. 2011-12.*

*9.3 The observations of the Assessing Officer in the Assessment Order and the submissions of the appellant have been carefully perused. It is observed that the appellant was engaged in the business of exchange of soiled notes and change of denomination of notes. The nature of business has also been stated by the employee of the appellant during the search operation in his statement which has explained the business activities of the appellant has not been disputed by the Assessing Officer. The addition has been made on the basis of addition on the same ground made by the Assessing Officer in A.Ys. 2011-12 and 2017-18. The addition made by the Assessing Officer in A.Y. 2011-12 was confirmed by the Ld. CIT(A) but the same was deleted by the Hon'ble ITAT vide order in ITA No.9084/DEL/2019 dated 21.02.2023. The observations of the Hon'ble ITAT with respect to the issue in question is reproduced as under:-*

*"8. Apropos ground nos. 7 to 11 the learned counsel submitted that from the copy of the assessment order for A.Y. 2007-08 para 2 it is*

*clear that the AO himself noted that the assessee is engaged in the business of Exchange of Torn/Soiled/Mutilated Indian Currency Notes into New/Fresh and vice-versa on discount/commission basis. The learned counsel further submitted that the assessee during the course of reassessment proceedings clarified to AO that torn currency notes were deposited with normal currency notes while providing date wise details of cash withdrawn and cash deposited in the bank account. The learned counsel further submitted that the assessee used to withdraw cash out of its bank account and used to deposit the cash in its bank accounts from time to time and the cash transactions were duly recorded in the cash book available at page no. 14 to 39 of assessee's paper book. The learned counsel further pointed out that at no point of time during FY 2010-11 there was any negative cash balance and the opening cash in hand/stock was of Rs. 68,99,594/- which was reflected in the balance sheet as on 31.03.2010 and brought as opening balance on 01.04.2010. The learned counsel further explained that the closing cash in hand/stock was Rs. 1,58,45,705/- which amount was reflected in the balance sheet on 31.03.2011 as cash in hand/stock. The learned counsel further pointed out that the AO has made addition of Rs. 1,09,49,000/- without any basis which was the amount of cash deposited to the bank accounts of the assessee with Axis Bank and Standard Chartered Bank. The learned counsel further submitted that the Assessing Officer has deliberately ignored a very relevant fact that the assessee withdrawn the assessee has withdrawn of Rs. 1,99,30,000/- from said two bank accounts which is very higher than the total amount deposited by the assessee to the said bank accounts. The learned counsel submitted that when the assessee is in the business of Exchange of Torn/Soiled/Mutilated Indian Currency Notes into New/Fresh and vice-versa on discount/commission basis then it is obvious that the assessee would deposit cash/notes received from clients and would also simultaneously withdraw cash/notes from the bank accounts for the purpose of returning the same to the customer. Therefore there was no valid reason for the AO to make addition u/s. 68 of the Act of entire amount of cash deposited to the bank accounts of the assessee. The learned counsel also place reliance on the judgment Hon'ble jurisdictional High Court of Delhi in the case of Sona Electric Co. vs. Commissioner of Income Tax (152 ITR 507) and order of ITAT Delhi in the case of ITO vs. Mrs. Deepali Sehgal (ITA No. 5660/Del/2012 order dated 05.09.2014 and Smt. Parminder Kaur Matharoo us. ITO (ITA No. 840/Del/2021 order dated 15.11.2022 and submitted that addition made by the AO and upheld the Ld. CIT(A) may kindly be set aside and deleted.*

*9. Replying to the above the learned Senior DR strongly supported the orders of the authorities below and submitted that the Assessing Officer after considering the cash book of assessee rightly held that the assessee could not satisfy about the source of cash deposited to*

*the bank accounts therefore he has right in making addition in the hands of assessee u/s. 68 of the Act.*

*10. On careful consideration of rival submission first of all in the assessment order for A.Y. 2007-08 the AO himself noted that the assessee is in the business of Exchange of Torn/Soiled/Mutilated Indian Currency Notes into New/Fresh and vice-versa on discount/commission basis.*

*11. From the submissions of the assessee and facts noted by the authorities below it is clearly discernable that the Assessing Officer made addition of Rs. 1,09,49,000/- which was the total amount of cash deposited to the two bank accounts of the assessee. The learned Senior DR could not controvert that the assessee also withdrew Rs. 1,99,30,000/- from the same bank accounts during FY 2010-11. When the assessee is in the business of exchange of old Torn/Soiled/Mutilated currency noted then the modus operandi of business would be the same as stated by the learned counsel of the assessee that is the assessee has to deposit old Torn/Soiled/Mutilated notes to the bank account and he is required to withdraw amounts from the bank account for the purpose of giving the same in exchange to its customer and clients. Therefore we declined to approve basis taken by the AO for making addition of entire cash deposited to the bank accounts of the assessee and ignoring the high amount of cash withdrawn by the assessee for the purpose of its business. Therefore addition made by the AO and upheld by the Ld. CIT(A) has no legs to stand. Our above noted conclusion also gets strong support from the judgement of the Hon'ble Delhi High Court in the case of Sona Electric Co. Vs. CIT (supra) and orders of ITAT Delhi Bench in the case of ITO vs. Mrs. Deepali Sehgal and Smt. Parminder Kaur Matharoo vs. ITO (supra) to hold that the addition made by the AO u/s 68 of the Act is not sustainable. Therefore we direct the AO to delete the same. Accordingly grounds no. 7 to 11 of assessee on merits are also allowed.*

*12. In the result appeal of assessee is allowed."*

*9.4 As discussed above, the issue on which the Assessing Officer has made the addition has already been decided by Hon'ble ITAT in favour of the appellant. There is no change in facts, therefore, respectively following the decision of Hon'ble ITAT, the addition made by the Assessing Officer u/s 68 of the Act, amounting to Rs.2,50,88,870/- is deleted."*

6. With regard to addition made on account of alleged commission on 4% of the amounts credited in the bank account by alleging that the same represents Hawala transactions, the learned CITA observed that considering

the nature of the business of the Assessee, the amounts found credited cannot be considered as Hawala transactions and there was no justification for treating the same. The learned CITA also observed that the transactions reflected in the said bank account have already been considered by the Assessee in the profit loss account and in the return of income filed and since no mistake was pointed out by the learned AO on the same and there was no mismatch with the cash book, bank book and the transactions reflected thereon. Hence there is no case for making an addition on account of alleged commission at the rate of 4%. The relevant observations made by the learned CITA in this regard are reproduced here under:-

*"10. Ground No.7:- In this ground, the appellant has challenged the addition made by the Assessing Officer @ 4% of the total amount credited in the bank account of the appellant. The Assessing Officer has noted that the assessee failed to prove that the amount credited in its bank account has been used in the business activity and alleged that the assessee has withdrawn the amounts credited in the bank account which must have been used for other business and it was not disclosed to the Assessing Officer and further noted that the karta of HUF is a Hawala Operator who has used this money to facilitate Hawala transactions and must have earned undisclosed income which was estimated @4% of the total amount credited in the account. The appellant submitted that the business of the assessee was of exchanging the soiled notes and changing currency from bigger denomination to smaller denomination and vice-a-versa for which it has been earned commission. The commission earned by the appellant depend on various factors such as nature of the notes etc. Ignoring the nature of business of the appellant, the Assessing Officer surmised that the assessee was engaged in the business of Hawala transactions as the karta of the assessee was Hawala Operator. The assessee submitted that all the transactions in the bank account have been duly accounted for in the books of account which was not rejected by the Assessing Officer, therefore, there was no justification for making any addition by way of arbitrarily estimating commission on the cash deposits in the bank account.*

*10.1 The observations of the Assessing Officer and the submission of the appellant have been carefully perused. The issue of cash deposits in the bank account of the appellant has been discussed in the previous grounds. It is not disputed that the assessee is engaged in the business of exchanging the soiled notes and changing of currency. Further, the appellant used to deposit and withdraw cash from its bank account. The appellant had submitted its P&L A/c., computation of income, bank statement and the cash book etc. to the Assessing Officer during the course of assessment proceedings and the*

*Assessing Officer has not pointed out any mistakes in the cash books or any mismatch with the transactions in the bank with the books of accounts of the assessee. The Assessing Officer has also not pointed out any mistake in the expenses claimed by the appellant in its P&L A/c. on the turnover of sales and commission declared by the appellant. The Assessing Officer has also not challenged that the revenue shown by the appellant in P&L A/c. was not justifiable. Therefore, I find that the estimation @ 4% of the amounts credited in the bank account as commission suffers from arbitrariness and surmises which cannot be justified. Accordingly, the addition made by the Assessing Officer is found to be not sustainable and is hence, deleted."*

7. With regard to addition made in the sum of Rs 29,27,162/- under section 69 of the Act towards notional interest income at the rate of 12% on the unsecured loans granted by the Assessee to its relatives, the Learned CITA accepted to the contentions of the Assessee that the unsecured loans were given by the Assessee to its relatives out of surplus funds available with it and not out of borrowed funds. He observed that in any case, there is no question of making any addition towards notional interest income. The relevant observations of the Learned CITA are reproduced here under:-

*"11. Ground no.8: The AO has observed in the assessment order that the appellant company has made investment of Rs. 2,43,93,018/- on which no income was declared during the year under consideration. The AO estimated deemed interest income @ 12% of the investment and made addition u/s 69 of the Income-tax Act. The appellant submitted that it had given interest free unsecured loans out which are surplus funds mainly to the family members and no interest were charged duly reported in the balance-sheet of the appellant. The appellant further submitted that the loan was not given from any interest-bearing borrowings, therefore, there is no justification in estimating the interest income in the hands of the appellant. The observations of the AO and the submission of the appellant have been carefully perused, it is observed that there is no material on record to state that the appellant has charged any interest from the loans given by it to various entities. The appellant has also not charged any interest in its P/L Account as expenses, There is no provision in the Act to tax deemed interest income on the interest free loans given by the appellant as such. Accordingly, I find that the addition made by the AO on presumptive basis cannot be sustained and is hence deleted.*

8. We find that the Learned CITA had elaborately discussed each and every ground by considering all the relevant materials on record and also by

considering the tribunal order in Assessee's own case wherein similar addition has been deleted. Once the nature of business has been duly appreciated by the Learned CITA, the second addition which had been made by the Learned AO falls flat as the transactions in the bank account have been considered genuine and not arising out of hawala operations. The commission transaction also has been rightly deleted by the Learned CITA. Similarly, since the unsecured loans were given by the Assessee to its relatives out of own funds and no borrowed funds are involved thereon, there is no question of making any addition towards notional interest income at the rate of 12% on the loans given. These facts have been duly appreciated by the Learned CITA while granting relief. Hence, we do not find any infirmity in the order of the Learned CITA. Accordingly, the grounds raised by the revenue are dismissed.

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

Order pronounced in the open court on 26/11/2024.

**-Sd/-**  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**-Sd/-**  
**(M BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated:26/11/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi