

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

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER (Now Hon’ble Vice
President) &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No. 1297/Ahd/2024
(Assessment Year: 2017-18)

Mahendrakumar Prahladbhai Vaghela Vaghari Vas, Itadara, Mansa Gandhinagar, Gujarat, 382424	Vs.	ITO (Int. Txn.)-1, Ahmedabad
[PAN No.ANQPV2834C]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Vivek Chavda, AR
Respondent by:	Shri Sanjay Kumar, Sr. D.R.
Date of Hearing	23.10.2024
Date of Pronouncement	05.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL, JM:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals) (in short “Ld. CIT(A)”), Ahmedabad-13 vide order dated 09.04.2024 passed for the Assessment Year 2017-18.

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

- “1.1 The order passed u/s. 250 on 09.04.2024 for A.Y.2017-18 by CIT(A) 13, Ahmedabad upholding the addition of Rs.15,15,000 made by AO is wholly illegal, unlawful and against the principles of natural justice.
- 1.2 The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the eccentric facts and evidence available with regard to the impugned additions.
- 1.3 The Ld. CIT(A) has grievously erred in law and on facts in not carrying / out any inquiry with regard to the applicability of the provisions of Income tax Act and

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thereby violated the principle of natural justice. Therefore, the appellant shall be granted opportunity to produce additional evidences.

2.1 *The Ld. CIT(A) has grievously erred in law and or on facts in upholding the reopening the case under section 147.*

2.2 *That in the facts and circumstances of the case and in law, the reopening upheld by the CIT(A) was wholly illegal, unlawful and against the principle of natural justice which deserves to be quashed as it is out of jurisdiction.*

3.1 *The Ld. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs. 15,15,000 as unexplained Money u/s 69A.*

3.2 *That the Ld. CIT(A) ought not to have upheld addition of Rs. 15,15,000 as unexplained Money u/s 69A.”*

3. The brief facts of the case are that the Income Tax Department, through its online verification process under the initiative ‘Operation Clean Money,’ identified various individuals who had deposited substantial sums of cash during the demonetization period (from November 9, 2016, to December 30, 2016), yet had not filed their income tax returns for the assessment year 2017-18. Upon reviewing the data, the Assessing Officer (Ld. AO) observed that the assessee had deposited a total of Rs. 15,15,000 in cash into his bank accounts during the demonetization period, using old currency notes of Rs. 500 and Rs. 1000. The details of the deposits were as follows:

- (i) Rs. 1,015,000 deposited on November 18, 2016, and
- (ii) Rs. 500,000 deposited on November 21, 2016, both at Canara Bank, under account number 3179104000002.

4. Further, the AO noted that on reviewing the bank statements of the assessee, a total of Rs. 18,74,511 was credited into the bank accounts (including Rs. 15,15,000 deposited in cash during the demonetization period), along with Rs. 3,59,264 credited through transfers and other deposits. Since the total credits in the bank accounts were not satisfactorily explained, the AO

treated the unexplained sum of Rs. 18,74,511 as undisclosed income under Section 69A of the Income-tax Act, 1961 and added the same to the total income of the assessee.

5. In appeal, Ld. CIT(Appeals) observed that the assessee's primary contention in this case revolves around the cash deposits made during the demonetization period, amounting to Rs. 15,15,000, which the appellant claims were withdrawals made in previous years. These withdrawals were then deposited during the demonetization period to repay a home loan. The appellant has submitted additional evidence to support this claim, which was forwarded to the Assessing Officer for review. The AO, however, pointed out several inconsistencies in the appellant's submissions, as well as issues with declarations from related individuals. Upon reviewing these submissions, Ld. CIT(Appeals) concurred with the AO's findings with respect to cash deposit of ₹ 15,15,000/-. Ld. CIT(Appeals) observed that the declaration submitted by the assessee's relatives, which claimed that the cash was held by them, cannot be considered genuine. Ld. CIT(Appeals) was of the view that these declarations were self-serving documents. Ld. CIT(Appeals) was of the view that if any of the withdrawn money had remained unused, it should have been deposited into the bank accounts of the respective relatives, from where it could have been transferred to the assessee's bank accounts. In this case, there was a substantial gap between the cash withdrawals and the deposits, and the assessee failed to explain why the cash remained at the relatives' homes when they had access to bank accounts. Furthermore, no reasonable explanation was provided for making cash repayment during the demonetization period.

6. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(Appeals). On going through the facts of the instant case, we observe that during the proceedings before Ld. CIT(Appeals), the assessee submitted additional evidence, for which CIT(Appeals) obtained a remand report from the Assessing Officer. The assessee clarified that the amount deposited into the bank account represented the repayment of previous loans given to relatives, which were returned to the assessee during demonetization period. A detailed tabular chart giving details of relatives from whom cash was received was also furnished before Ld. CIT(Appeals), during the course of appellate proceedings (at page 25 of Ld. CIT(Appeals) order). According to the assessee, during the demonetization period, these relatives offered cash in the form of SBN (specified bank notes) to settle outstanding loans. The appellant explained that he was left with no choice but to accept the SBN as a means of settling the loans, fearing that otherwise, the debts would become uncollectible. The assessee submitted that his decision to accept the cash was prudent, given the malicious intentions of the relatives, which he believed could lead to future disputes. The assessee also furnished notarized declarations from some of the relatives, the contents of which have been reproduced by Ld. CIT(Appeals) in his order (refer page 27 of CIT(Appeals) order). The assessee's prediction of such disputes also proved correct, as these relatives eventually generated family disputes that culminated in the assessee's divorce. Furthermore, the assessee also furnished the PAN numbers of the related parties from who the amounts were received back (refer page 25-26 of CIT(Appeals) order). Accordingly, in our considered view, the assessee has submitted substantial details/ plausible explanation in support of the source of cash deposit made during the demonetization period. Further, we

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observe that Department while making this addition of Rs. 15.15 lakhs has not conducted any inquiry from the lenders, to verify the facts presented by the assessee and nor has pointed of any specific defects in the details submitted by the assessee. The primary reason why Ld. CIT(Appeals) confirmed the additions was on the foundation that cash withdrawn in the previous several years could not have been kept unused for such a long period of time. In the case of **Sudhirbhai Pravinkant Thaker 88 taxmann.com 382 (Ahmedabad - Trib.)**, the ITAT held that when assessee had demonstrated that he had withdrawn cash from bank and there was no finding by authorities below that this cash available with assessee was invested or utilized for any other purpose, it was not open to authority to make addition on basis that assessee failed to explain source of deposits. In the case of **Ajit Babu Satam 147 taxmann.com 222 (Mumbai - Trib.)**, the ITAT held that where Assessee contended that cash which was withdrawn by assessee from bank was deposited in very same bank account and he provided details of cash withdrawal from bank account and cash so withdrawn was lying with him and was not used anywhere else, since both cash withdrawal and deposit were duly substantiated from bank statement of very same branch of bank and there was no findings by lower authorities that cash available with assessee was invested or utilised for any other purpose, cash so deposited could not be treated as unexplained money under section 69A of the Act. In the case of **Jaspal Singh Sehgal 83 taxmann.com 246 (Mumbai - Trib.)**, where the assessee submitted detailed cash summary showing inflow and outflow of cash for relevant year, in absence of any materials to show that cash withdrawn was utilised elsewhere by assessee, benefit of cash withdrawn by assessee from bank account against amount of cash deposit into bank should be given. In

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the case of **Smt. Krishna Agarwal v. ITO in ITA. No. 53/JODH/2021**, the ITAT held that mere time gap between withdrawals and deposits cannot be the reason for alleging undisclosed income. In the case of **ITO v. Deepali Sehgal I.T.A .No.-5660/Del/2012** it was held that merely because there was a time gap between withdrawal of cash and its further deposit to the bank account, the amount can not be treated as income from undisclosed sources u/s 69 of the Act in the hands of the assessee.

7. Accordingly, looking into the instant facts and the explanation provided by the assessee, along-with supporting evidences/ Affidavits etc. we are of the considered view that no addition is called for the instant facts.

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

This Order pronounced in Open Court on	05/12/2024
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Sd/-

(DR. BRR KUMAR)
ACCOUNTANT MEMBER /
Now, Vice President

Ahmedabad; Dated 05/12/2024

Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रहित/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,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad