

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 1464/Ahd/2024
(Assessment Year: 2017-18)

Virtiben Preyashkumar Shah, B-205, Suflam Flat, Naranpura Char Rasta, Ahmedabad-380013 [PAN : BNCPS 0800 A]	Vs.	Income Tax Officer, Ward 2(2)(5), Ahmedabad
(Appellant)	..	(Respondent)

Appellant by :	Shri Sanjay R. Shah, AR
Respondent by:	Adjournment application filed

Date of Hearing	03.12.2024
Date of Pronouncement	06.12.2024

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 10.06.2024 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 Assessee has taken following grounds of appeal:-

"1. The learned Assessing Officer as well as the CIT(Appeals) erred in making addition and confirming the said addition respectively by not providing proper opportunity to the Appellant to lead the evidences. It is submitted that the orders passed by the lower authorities are against the principles of natural justice and in the interest of justice, the present appeal may please be restored to the file of the Assessing Officer.

2. The learned CIT(Appeals) erred in law and on facts in confirming the addition of Rs.1,19,41,872/- to the returned income of the Appellant u/s.69A of the Act on the ground that the said amounts being cash deposited in the

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bank accounts of the Appellant are unexplained, and hence, the Assessing Officer has correctly added the same to the returned income of the Appellant. It is submitted that in the facts and circumstances of the case, the said addition is not warranted and the same be directed to be deleted.

3. The learned CIT(Appeals) erred in confirming the addition made by the learned Assessing Officer of Rs.1,19,41,872/- by considering the same as addition u/s.69A and upholding the action of the learned Assessing Officer in charging tax on the same u/s.115BBE of the Act in spite of the fact that there was neither invocation of section 69A nor section 115BBE in the assessment order passed by the learned Assessing Officer. It is submitted that it be so held now and the addition as confirmed by CIT(Appeals) be deleted.

3.1 Without prejudice to the above, even if the addition u/s.69A is confirmed, the Appellant submits that the provisions of section 115BBE are not applicable to the facts of the case, and hence, at the most, the tax as per general provisions of the Act may only be levied.

4. Without prejudice to any of the earlier grounds, the learned Assessing Officer as well as the learned CIT(Appeals) failed to apply principles of telescoping while assessing the Appellant. It is submitted that there were also withdrawals by the assessee from the bank accounts, which can explain the deposit of the money into the bank account during the entire year, and hence, only net addition of the cash deposited in the bank account can be considered to be unexplained investment of the Appellant. It is submitted that it be so held now and the learned Assessing Officer be directed to compute the net addition only after applying the principle of telescoping.

5. The learned Assessing Officer erred in law and on facts in charging interest u/s.234B for a sum of Rs.30,46,263/-. The learned CIT(Appeals) erred in confirming the same. It is submitted that in the facts and circumstances of the case, such interest is not chargeable and the same may please be deleted.

6. The appellant reserves the right to add, alter or amend any of the grounds of appeal. ”

3. In this case, the assessment order has been passed by the Income-Tax Officer, Ward 2(2)(5), Ahmedabad on 22.12.2019 determining total income of the assessee at Rs.1,23,18,612/- against the returned income of

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Rs.3,76,740/- on account of unexplained cash deposited in the bank accounts amounting to Rs.1,19,41,872/-.

4. Aggrieved, the assessee filed appeal before the Id. CIT(A) who confirmed the order of the Assessing Officer as the assessee could not explain the source of cash deposits in her bank accounts.

5. Aggrieved with the order of the Id. CIT(A) confirming the addition made by the Assessing Officer, the assessee has filed an appeal before the Tribunal.

6. Before us, Id. Counsel for the assessee submitted the cash flow statements of cash deposits and withdrawals with opening cash in hand of Rs.16,21,126/-. Since the Revenue has not got the opportunity to examine the details filed, the Id. Counsel prayed that the entire details would be submitted before the Assessing Officer who is the primary authority to assess the tax. Hence, in the interest of justice, we direct the AO to examine the details filed by the assessee after issue of notice afresh. The assessee shall comply to the notice and file the documents which he may rely upon.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

The order is pronounced in the open Court on 06.12.2024

Sd/-

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

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

Ahmedabad; Dated 06/12/2024

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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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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad