

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

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.203/Ahd/2024
Assessment Year: 2018-19**

Ketan Chandrakant Motta, 302A, Galaxy Appt, Wadi Plot, Porbandar – 360 575. (Gujarat) [PAN – ANZPM 3282 G] (Appellant)	Vs.	Income Tax Officer, Ahmedabad. (Respondent)
Assessee by	Shri Rajeev Kumar Goyal, AR	
Revenue by	Shri V. Nandakumar, CIT-DR	
Date of Hearing	19.11.2024	
Date of Pronouncement	13.12.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 27.01.2024 passed by the Income Tax Officer, Ward-1, Int. Tax., Ahmedabad for the Assessment Year 2018-19.

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

- “1. Addition amounting to Rs.3,89,88,000/- under Section 69 r.w.s. 115BE is illegal, unjust & void.
2. Addition amounting to Rs.5,50,000/- under Section 69 r.w.s. 115BBE is illegal, unjust & void.
3. No explanation was ever asked by the Ld. D.R.P. on the matter which is the basic premise of addition amounting to Rs.3,89,88,000/-. No opportunity was provided for explanation by D.R.P. on whose direction order under Section 147 r.w.s. 144c(13) was passed.

4. *Evidences submitted were ignored.*
5. *Case of sheer injustice.*
6. *Initiation of penalty under Section 274 r.w.s. 271AAC(1) of the Act is wrong.*

3. The assessee is a non-resident. The assessee has not filed his return of income for the Assessment Year 2018-19 under Section 139(1)/139(4) of the Income Tax Act, 1961. According to the information, it was stated that the assessee had carried out high value transactions of time deposit made by other renewal of time deposit and unexplained credit entry in Bank Account. The assessee made total transaction of Rs.3,94,84,401/- during the Financial Year 2017-18. A notice under Section 148 of the Act was issued on 30.03.2022 and the assessee filed return of income on 02.05.2022 declaring total income of Rs.98,330/-. Accordingly, notice under Section 143(2) read with Section 147 of the Act dated 12.10.2022 was issued and served to the assessee. The Assessing Officer observed that the assessee made investment in FDR to the tune of Rs.3,89,88,000/- in HDFC Bank. Since the assessee has not furnished the supporting documentary evidences for the transactions i.e. fund remitted of 600000 USD to India from UAE and the investment in FDR of Rs.3,89,88,000/- in HDFC Bank. The Assessing Officer issued show-cause notice asking the assessee as to why the same should not be treated as unexplained investment under Section 69 read with Section 115BBE of the Act. After taking cognisance of the assessee's reply, the Assessing Officer made addition of Rs.3,89,88,000/-. The Assessing Officer proposed to make addition of Rs.17,40,000/- as unexplained money under Section 69A read with Section 115BBE of the Act.

4. Being aggrieved by the draft Assessment Order, the assessee filed for direction from Ld..DRP which the Ld..DRP refused to entertain, culminating in passing of the final order by the AO.

5. The Ld. AR submitted in his statement of fact to Form 36 that the following evidences were submitted before the D.R.P. dated 15.11.2023:-

Sr. No.	Particulars
1.	<i>Passport evidencing that assessee is an NRI</i>
2.	<i>Emirate NBD Bank statement where assessee's salary is credited showing an investment of US\$ 1,00,000 (his own share)</i>
3.	<i>Salary Certificate</i>
4.	<i>FAB account statement of assessee where that investment of US\$ 1,00,000 (AED 4,00,000) is credited.</i>
5.	<i>FAB Bank's internal investment account showing the US\$ 1,00,000 from assessee and US\$ 5,00,000 as loan</i>
6.	<i>HDFC NRE account where the entire amount US\$ 6,00,000 (Rs.3,89,88,000) is credited</i>
7.	<i>NRE FD confirmation</i>
8.	<i>Loan agreement</i>
9.	<i>Source of Rs.17,40,000/- out of which Rs.5,50,000/- was remitted from Emirates NBD Account & Rs.11,90,000/- the economic exchange the source of which was money withdrawn from FAB accounts.</i>
10.	<i>Agreement to the purchase of property where the Rs.17,40,000/- is transferred.</i>

6. The Ld. AR submitted that after the conclusion of the assessment proceedings, the assessee obtained HDFC Bank attested certificate to prove that the same as mentioned was indeed received as remittance from abroad and the same was provided on 16.01.2024. However, since the directions of the D.R.P. were already issued at that point in time and the same evidence could not have been considered by the AO while passing the Assessment Order dated 27.01.2024. The Ld. AR. therefore submitted that the matter may be send back to consider this evidence of HDFC Bank certificate.

7. The Ld. DR submitted that the factum should be examined by the AO.

8. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that this HDFC Bank certificate related to the remittance from aboard needs verification by the Assessing Officer as the said crucial evidence was not before the AO at the time of passing of the order. Hence, the Assessing Officer is directed to take cognisance of the said certificate and adjudicate the issues on merit as per the provisions of Income Tax Act.

9. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open Court on this 13th December, 2024.

Sd/-
(DR. BRR KUMAR)
Vice President

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 13th December, 2024

PBN/*

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad