

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

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1687/Ahd/2024
(Assessment Year: 2013-14)

Dipikaben Alpeshkumar Patel (Legal Heir of Late Alpeshkumar Jagadishbhai Patel), Undi Khadki Khambholaj, Anand, Gujarat-38330	Vs.	Additional/Joint/Deputy/ Assistant Commissioner of Income Tax/Income Tax Officer, National Faceless Assessment Centre Delhi, (Jurisdictional AO: Income Tax Officer, Ward-1, Anand)
[PAN No.BCYPP7278N]		
(Appellant)	..	(Respondent)

Appellant by :	Ms. Arti N Shah, A.R.
Respondent by:	Shri V. K. Mangla, Sr. D.R.

Date of Hearing	17.12.2024
Date of Pronouncement	18.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

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)”), National Faceless Appeal Centre, (in short “NFAC”), Delhi vide order dated 30.07.2024 passed for A.Y. 2013-14.

2. The Assessee has taken the following grounds of appeal:-

“1. The Hon’ble Commissioner of Income-tax (Appeals) [CIT-A] erred in law and facts of the case by confirming the addition of Rs. 16,82,000/- u/s.69A of the Income-tax Act, 1961 (‘the Act’) made by the learned Assessing Officer.

2. The Hon’ble CIT-A has erred in the law and facts of the case by confirming charging of interest under section 234A and 234B amounting to Rs. 5,09,306/- and Rs. 5,30,094/- respectively by the learned Assessing Officer.

3. *The Appellant reserves the right to add, alter, amend and / or withdraw any of the above Grounds of Appeal.”*

3. The brief facts of the case are that the assessee did not file a return of income for the Assessment Year 2013-14. The Assessing Officer (AO) had information that the assessee deposited cash amounting to Rs. 16,82,000/- in his bank account during the year, which did not align with his profile as a non-filer. Consequently, the AO issued a notice under Section 148 on 09.04.2019. The assessee failed to respond, prompting the AO to issue another notice under Section 142(1) on 29.09.2020. In response, the assessee submitted that the cash deposits were from his business dealings in tobacco and bananas, which were deposited into his Central Bank of India account. The assessee filed a return of income on 21.10.2020, declaring “Nil” income, but it was considered invalid as no explanation for the invalid return was provided. The AO issued a show-cause notice, but the assessee failed to respond, leading the AO to complete the ex-parte assessment under Section 144 of the Act, and made additions under Section 69A of the Act for unexplained cash deposits.

4. Before Ld. CIT(Appeals), the assessee raised two grounds of appeal, with the first ground challenging the addition of Rs. 16,82,000/-. Ld. CIT(Appeals) noted that the assessee failed to explain the source of the cash deposits despite being given multiple opportunities to present evidence and explanations. Ld. CIT(Appeals) held that the assessee has not been able to discharge the burden of proof which was on the assessee, to explain the source and nature of any unexplained income, and the

assessee failed to discharge this responsibility. Ld. CIT(Appeals) held that the assessee did not produce any documentary evidence or satisfactory explanations regarding the source of the cash deposits. Accordingly, Ld. CIT(Appeals) upheld the AO's decision to treat the cash deposits as unexplained income, and the appeal of the assessee was dismissed.

5. The assessee is in appeal before us against the order passed by Ld. CIT(Appeals). Before us, the Counsel for the assessee submitted that the assessee is an individual who filed a return of income under Section 148 of the Income Tax Act, declaring income from other sources amounting to Rs. 1,611/- and agricultural income of Rs. 10,42,940/-. The Tax Authorities issued a notice to the assessee, requesting an explanation for a cash deposit of Rs. 16,82,000/- in his bank account during the relevant year. The Counsel for the assessee submitted that the bank account in question, with the Central Bank of India in Khambhloj, was jointly held with his father and other family members. The Counsel for the assessee that though the notice mentioned a total cash deposit of Rs. 16,82,000/- in this account, but the assessee provided evidence that the actual cash deposit was only Rs. 1,05,000/-. The deposits were made on two separate occasions: Rs. 50,000/- on 06/05/2012 and Rs. 55,000/- on 07/07/2012. The Counsel for the assessee submitted that the source of these deposits was withdrawals made from the same bank account and income from agricultural activities, primarily from cultivation of tobacco and bananas. The assessee also mentioned that the family owned around 15 vighas of agricultural land in Khambhloj. In summary, the Counsel for the assessee

reiterated that the true and correct amount of the cash deposit was Rs. 1,05,000/- and not Rs. 16,82,000/-, and this deposit was sourced from agricultural income and bank withdrawals the Counsel for the assessee also submitted a summary of their bank account with the Central Bank of India (Account No. 2123796665), including the opening balance, cash deposits, transfer from family fixed deposits, and other relevant details.

6. In response, the Ld. DR placed reliance on the respective orders passed by the Assessing Officer and Ld. CIT(Appeals).

7. We have heard the rival contentions and perused the material on record.

8. On going through the summary of bank account details furnished by the Counsel for the assessee (the contents of which were also not disputed by the Ld. DR), it is observed that there were cash withdrawals to the tune of Rs.12,02,000/- from the same bank account during the year under consideration. We also observe that the assessee had filed return of income declaring agricultural income of Rs.10,42,940/- for the year under consideration. The assessee has also submitted that the said bank account was a joint family bank account in which income from agricultural receipts were deposited. In our considered view, taking into consideration the totality of facts, wherein it is seen that the assessee had itself withdrawn a sum of Rs.12,02,000/- from the same bank account during the year under consideration (and there is no allegation that the said amount was invested / utilized by the assessee for any specific purpose), has declared

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agricultural income of Rs.10,42,940/- for the year under consideration and also given prima facie evidence of having been engaged in agricultural activities and also taking into consideration the fact that the assessee's family was in ownership of agricultural land, the assessee has been able to reasonably explain the source of cash deposits of Rs.16,82,000/- in the bank account held by the assessee. Accordingly, we allow the appeal of the assessee.

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

This Order is pronounced in the Open Court on	18/12/2024
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Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 18/12/2024

TANMAY, Sr. PS

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आदेश की प्रतिलिपि अग्रेषित / 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