

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2092/Bang/2024
Assessment Years : 2017-18

Girdhari Lal Choudhary, Door No.110, Ward No.8, Kambli Bazaar, Bellary – 583 101.  <b>PAN – AFVPC 3995 F</b>	Vs.	The Income Tax Officer, Ward – 1 & TPS,, Bellary.  .
APPELLANT		RESPONDENT

Assessee by	:	Shri Balachandran, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Dept.

Date of hearing	:	04.12.2024
Date of Pronouncement	:	11.12.2024

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed by the National Faceless Assessment Centre (NFAC), Delhi, dated 03/09/2024, in ITA No. ITBA/NFAC/S/250/2024-25/1068304958(1) for the assessment year 2017-18.

2. The only issue raised by the assessee is that the learned CIT(A) erred in confirming the addition made by the Assessing Officer (AO) of Rs. 11,45,000, which represents deposits of specified bank notes (SBNs) during the demonetization period.

3. The assessee in this case is an individual who declared income under the heads "Salary" and "Other Sources." Income from other sources includes commission and interest from the deposits with bank/ advance loan to the party. During the year in question, the assessee made cash deposits in specified bank notes (SBNs) amounting to Rs. 14,90,000.00 only. The source of the same was explained by the assessee that this amount was out of income from the current and preceding years.

4. However, the AO allowed a credit of Rs. 3,45,000, which represented salary and commission earned up to the demonetization period. The remaining amount of Rs. 11,45,000 was treated by the AO as unexplained cash investment under Section 69A of the Income Tax Act. The AO's reasoning for treating the cash deposits as unexplained investment was as follows:

1. The assessee failed to justify the necessity of holding such a large amount of cash in hand despite having banking facility.
2. The sources of the accumulated cash in earlier years (2015-16, 2016-17, and 2017-18) were not satisfactory, as there was no supporting material to show where the cash came from.
3. The assessee did not provide any details regarding expenses incurred in the earlier years.
4. The assessee claimed to have received salary and commission from M/s Montoo Apparels and Montoo Garments, and after depositing the cash in the bank, had advanced loans to the same companies.

5. As a result, the AO treated the sum of Rs. 11,45,000 as unexplained investment under section 69A of the Act and added it to the total income of the assessee.

Aggrieved by this addition, the assessee appealed to the learned CIT(A).

The assessee argued that:

- The cash on hand, which was used for the deposits during the demonetization period, was declared in the returns for the assessment years 2015-16 and 2016-17. Specifically, in the return filed on 23/12/2015 for the assessment year 2015-16, the assessee had declared cash on hand amounting to Rs. 6,83,856, and in the return filed on 14/11/2016 for the assessment year 2016-17, the assessee declared cash for Rs. 12,14,435.00. only. The assessee argued that these amounts were sufficient to justify the cash deposits made during the demonetization period.
- The assessee further contended that the explanation provided during the assessment proceedings was not rejected by the AO.

6. However, despite these arguments, the learned CIT(A) upheld the AO's decision and confirmed the addition. The Id. CIT(A) observed as under:

*"Before analyzing the replies furnished by the appellant, it will be appropriate to observe that the source of income of the appellant is salary and other sources. The returns of income in his case have been filed on Form No. 1, which does not require reporting of cash in hand. Therefore, the cash flow remains unsubstantiated. The appellant is not engaged in any business that involves frequent cash transactions. The amount deposited during the demonetization period was supposedly from accumulated cash from the current and previous years, but the appellant failed to provide any explanation for the necessity of holding such a large sum of cash as a salaried person. This means the cash was likely for personal use, and no prudent businessman would hold such a large amount of cash, given the risk involved and the opportunity cost of losing interest. The bank services and ATMs are available 24/7. The appellant's replies remain unsubstantiated and are self-serving documents that*

*cannot be relied upon. Merely stating the source without corroborative evidence is not sufficient to explain the source of the cash deposits. Therefore, I uphold the AO's addition of Rs. 11,45,000 as unexplained cash investment under Section 69A of the Act."*

7. Being aggrieved by the order of the Id. CIT(A), the assessee is now in appeal before us.

8. The learned Authorized Representative (AR) reiterated the submissions made before the authorities below. The Id. AR drew our attention to the Income Tax Returns (ITRs), which had not been doubted by the authorities below. Additionally, the amount of loan advanced by the assessee to M/s Montoo Apparels and Montoo Garments and the interest earned thereon had been accepted by the revenue in the assessment under Section 143(3) of the Act.

9. On the contrary, the Id. DR contended that there was disclosure of cash in the income tax return filed in the earlier years. Therefore, the argument of the Id. AR cannot be relied that the cash deposits in the year under dispute represents out of the income in the earlier years. The Id. DR vehemently supported the order of the authorities below.

10. We have heard the rival contentions of both the parties and perused the materials on record. In tax matters, suspicion alone cannot replace evidence. The Hon'ble Supreme Court in *CIT v. Daulat Ram Rawatmull* (87 ITR 349) held that suspicion is not a substitute for proof. The mere fact that the AO had doubts about the necessity of holding cash does not, by itself, constitute sufficient evidence to treat the cash deposits as unexplained. The revenue has failed to bring any contrary evidence to suggest that the income declared by the assessee in earlier

assessment years was used for other purposes. The AO's findings were based on assumptions and conjectures, such as the necessity of holding such a large amount of cash and the absence of business activity. However, as established by the Hon'ble Courts an addition cannot be made solely on the basis of assumptions; there needs to be concrete evidence linking the deposit to unexplained sources.

11. The assessee has already explained the source of the cash deposits as arising from the income disclosed in the returns for earlier years. The onus on the taxpayer is to explain the source of the investment or deposits, but once this explanation is provided, the revenue must establish that the explanation is false or insufficient. However, in the present case, the assessee has duly explained the source of the cash deposits. The fact that the cash was accumulated over several years and disclosed in prior returns should be sufficient to rebut the presumption under Section 69A of the Act. The revenue has not brought forward any evidence to suggest that the cash deposits were from unaccounted sources. The Hon'ble Supreme Court in *CIT v. Orissa Corporation (P) Ltd.* (159 ITR 78) held that "*it is the duty of the AO to substantiate his finding with appropriate evidence and not to rely on conjecture.*" As such, the cash and the income disclosed in earlier returns filed by the assessee provides a reasonable explanation for the deposits made during the demonetization period.

12. In light of the above, we are of the view that the addition made by the authorities below cannot be sustained. We, therefore, set aside the findings of the CIT(A) and direct the AO to delete the addition of Rs. 11,45,000 made on account of unexplained cash investment under

Section 69A of the Act. Hence, the ground of appeal of the assessee is allowed.

13. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in court on 11<sup>th</sup> day of December, 2024

Sd/-

**(KESHAV DUBEY)**  
Judicial Member

Sd/-

**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 11<sup>th</sup> December, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore