

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “F” BENCH: NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA Nos.2388 & 2389/Del/2024

[Assessment Year : 2017-18]

Raj Kumar Kapoor L/H of Late Ujwal Kapoor A-20, New Rajinder Nagar New Delhi-110060. PAN-ABAPK3517F	vs	ITO, Ward-50(1), Civic Centre, New Delhi-110002.
APPELLANT		RESPONDENT
Appellant by	Shri Ashok Khandelwal, CA	
Respondent by	Ms. Suneeta Verma, CIT DR	
Date of Hearing	25.09.2024	
Date of Pronouncement	20.12.2024	

ORDER

PER PRADIP KUMAR KEDIA, AM :

The captioned appeals have been filed at the instance of the assessee seeking to assail the First Appellate orders dated 28.07.2023 and 09.08.2023 passed by Ld. Commissioner of Income Tax(A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld.CIT(A)”] under s. 250 of the Income Tax Act, 1961 [“the Act”] arising from the assessment order dated 08.12.2019 passed under s. 143(3) and penalty order passed under s. 272A(1)(d) of the Act dated 25.06.2021 pertaining to assessment year 2017-18 respectively.

2. Both captioned appeals of the assessee have been heard together and therefore, a consolidated order is being passed hereunder:

ITA No.2388/Del/2024 [Assessment Years : 2017-18]

3. The assessee has raised following ground of appeal:-

1. *“Action of the CIT(A) in confirming the action of the A.O. in making an addition of Rs.12,68,000/- u/s 69A of I.T.Act, 1961 and taxed u/s 115BBE of I.T.Act 1961 on account of cash deposited in bank during demonetization period is unjust, illegal, arbitrary and against the facts and circumstances of the case.”*

4. As per the captioned appeal, the assessee has challenged the addition of INR 12,68,000/- towards cash deposits during demonetization period under s. 69A of the Act and taxed under s. 115BBE of the Act.

5. Briefly stated, the assessee filed return of income for AY 2017-18 in question declaring total income of INR 33,040/-. The assessee Late Ujwal Kapoor was a senior citizen about 75 years old at the time of cash deposits. The case was selected for scrutiny on the ground that the assessee had deposited cash during demonetization period. In the course of assessment proceedings, the AO examined the source of cash deposit during the demonetization period aggregating to INR 12,68,000/-. Dissatisfied with the explanation offered, entire amount of cash deposit was treated as unexplained money under s. 69 of the Act.

6. Aggrieved, the assessee preferred appeal before the Ld. CIT(A) however without any avail.

7. Further aggrieved, the assessee preferred appeal before Tribunal.

8. We have heard the rival submissions and perused the material available on record. It is the case of the Legal Heir of the assessee that cash summary of Late Ujwal Kapoor was submitted alongwith bank statement etc. before lower authorities which is reproduced hereunder:-

CASH SUMMARY OF Mrs.UJWAL KAPOOR			
Particulars			Amount in
Accumulated old saving			2,20,000
Cash withdrawals from Punjab National Bank during the year ending 31.03.2016			920,000
Cash deposit during the year ending 31.03.2016			(143,000)
Less:-Cash Expenses during the year ending			(60,000)
Cash in Hand as on 01.04.2016			9,37,000
Cash withdrawal upto 08.11.2016			475,000
Cash Deposit upto 08.11.2016			(90,000)
Cash Expenses upto 08.11.2016			(50,000)
Cash in Hand as on 08.11.2016			1,272,000
Cash Deposits during demonetization	11.11.2016	200,000	
	17.11.2016	18,000	
	18.11.2016	30,000	
	23.11.2016	25,000	
	25.11.2016	45,000	
	29.11.2016	150,000	
	01.12.2016	200,000	
	03.12.2016	200,000	

	07.12.2016	200,000	
	14.12.2016	200,000	(1,268,000)
Balance Cash in Hand			4,000

9. On perusal of the cash records and the cash summary, it is seen that the assessee was having accumulated old savings and also cash withdrawals before demonetization period. The assessee has given comprehensive details of source of cash deposits as noticed from the cash summary, the cash in hand immediately before demonization period stands at INR 12,72,000/- which was utilized for deposits during the demonetization period. Given a humble background of the assessee carrying no business and a person in her old age who has since died and represented by his Legal Heir, the examination by way of cash flow statement shows sufficient availability of cash and withdrawals made prior to demonetization period. The source of cash deposits is treated as explained.

10. We also notice that the assessee has filed exhaustive papers by way of summary of transactions with Punjab National Bank in the realization of FDR papers, statement of Affairs showing capital gain of INR 29,00,000/-. Given the old age, custody of such amount in possession for medical and other emergency needs cannot be wholly ruled out in the context of Indian Societal Construct. The preponderance of probabilities towards source of cash deposits appears to be in favour of the assessee. The source of cash deposits is thus treated as explained. Hence the first appellate order is set aside and the AO is directed to reverse the additions so made.

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

ITA No.2389/Del/2024 [Assessment Years : 2017-18]

12. The assessee has raised following ground of appeal:-

1. *“Action of the CIT(A) in confirming the action of the A.O. in imposing the penalty of Rs.30,000/- u/s 272A(1)(d) I.T.Act, 1961 is unjust, illegal, arbitrary and against the facts and circumstances of the case.”*

13. The captioned appeal arises from the penalty of INR 30,000/- under s. 272A(1)(d) of the Act imposed upon the assessee towards non-compliance of notice issued under s. 142(1) on three occasions.

14. As observed above, the assessee has ultimately complied with the assessment proceedings and filed exhaustive documents to support the source of cash deposits. No malafides inaction of the assessee can be envisaged given the old age of the assessee and ultimate compliances. The assessee being not a habitual defaulter, the imposition of penalty on the deceased assessee is wholly unconceivable in the mitigating circumstances existing in the present case. The penalty imposed by the Revenue authorities is thus reversed.

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

16. In the combined result, both captioned appeals of the assessee are allowed.

Order pronounced in the open Court on 20th December, 2024.

Sd/-

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI