

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य

BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकरअपील सं. / ITA NO. 737/Chd/2024

निर्धारणवर्ष / Assessment Year : 2017-18

Harvinder Singh C/o Tejmoan Singh, Advocate # 527, Sector 10-D, Chandigarh	बनाम	The ITO Ward-5(1), Chandigarh
स्थायी लेखा सं./PAN NO: ANDPS8633H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate

राजस्वकीओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 11/12/2024

उदघोषणा की तारीख/Date of Pronouncement : 23.12.2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 21/06/2024 pertaining to Assessment Year 2017-18.

2. In the present appeal, the Assessee has raised the following grounds of appeal:

"1. That the Ld. Commissioner of Income Tax (Appeals) has erred in upholding the addition of Rs.14,00,000/- made on account of alleged unexplained cash deposit of specified bank notes in the bank account which is arbitrary and unjustified.

2. That the provisions of Section 69 are not attracted in as much as the entire re-deposits are out of the previous withdrawals from the Bank Accounts maintained by the assessee which is not unexplained and as such upholding of the addition is arbitrary and unjustified.

3. That the Ld. Commissioner of Income Tax (Appeals) has further erred in upholding the charging of tax at 60% applying the provisions of Section 115 BBE which are not applicable in the instant case.

4. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

5. *That the order of Ld. Commissioner of Income Tax (Appeals) Officer is arbitrary, opposed to the facts of the case and thus untenable."*

3. Briefly the facts of the case are that the assessee e-filed his return of income declaring total income of Rs. 4,56,370/-. Subsequently the case of the assessee was selected for limited scrutiny for examination of cash deposited during the demonetization period. Thereafter notice under section 143(2) and 142(1) were issued and necessary information and documentation were called for from the assessee and a show-cause was issued and in response thereto, the assessee explained the source of cash deposit of Rs. 14,00,000/- during the demonetization period out of earlier cash withdrawals made from his bank account for the purposes of medical treatment of his sister and has given details of the cash so withdrawn on the various dates totaling to Rs. 15,35,000/-. The submissions so filed by the assessee were not found acceptable to the AO for the reason that the funds so withdrawn were not utilized for the purpose for which these were stated to have been withdrawn and addition of Rs. 14,00,000/- was made under Section 69 of the Act as unexplained cash deposit.

4. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) who has since sustained the said addition and against the said findings, the assessee is in appeal before us.

5. During the course of hearing, the submissions made before the lower authorities were reiterated by the Id AR and it was submitted that the submissions so filed have not been appreciated by the lower authorities. It was submitted that the assessee was maintaining two bank accounts with Canara Bank and Yes Bank and there were total cash withdrawals of Rs. 39,44,500/- from these two bank accounts from 01/04/2016 to 07/11/2016. It was submitted that out of the cash so withdrawn, the assessee has incurred household expenses of around 3,00,000/- for first eight months, expenses on construction of house for Rs.

9,00,000/- and expended another Rs. 8,00,000/- on illness of her sister who has since expired on 03/11/2016 and out of the remaining cash withdrawn, Rs. 14,00,000/- was deposited on 15/11/2016 which still leave an amount of Rs. 5,44,500/- as cash in hand. It was further submitted that during the period relevant to previous assessment year 2016-17, assessee sold his share of property for a sum of Rs. 1,17,50,000/- and has also received interest from Greater Mohali Area Development Authority of Rs. 62,20,454/- which were deposited in these two bank accounts and the cash has thus been withdrawn from the available and known source of funds which have been duly disclosed to the Revenue authorities. It was accordingly submitted that the source of cash so deposited is out of the earlier withdrawal so made from the bank account of the assessee and all relevant information in respect of the various dates on which the cash so withdrawn and the corresponding amount as well as copy of the bank statement of the account maintained with Yes Bank and Canara Bank were submitted before the lower authorities who have failed to appreciate the same.

6. Per contra, the Ld. DR relied on the findings of the lower authorities and our reference was drawn to the findings of the Ld. CIT(A) which are contained at para 4.2 and 4.4 of the impugned order which read as under:

"4.2 From the submission of the appellant, it is evident that the cash withdrawal spanning right from the start of the financial year till the end of October 2016 has been given as the source for cash deposit on 15.11.2016. The reason for the withdrawal has been mentioned as household expenses, construction of house in Mohali and meeting the expenses towards illness of the appellant's sister. The perusal of the cash withdrawal made from the beginning of the financial year till the end of October show that the appellant has been withdrawing cash at regular interval to meet various expenses, e.g., household, construction of house and for the illness. There is no evidence to show that the cash was being accumulated for meeting certain contingencies. The pattern of withdrawal of small amounts of cash frequently throughout the year shows that the appellant is withdrawing money as and when the situation demands. If the appellant had the cash balance of Rs 14,00,000/- in his hand, there was no requirement to withdraw from ATM amounts in few thousands at regular intervals in the month of October 2016. Therefore, the reasoning of the appellant regarding accumulation of cash in hand for cash deposit during demonetization does not deserve any merit as the contention of the appellant is that the cash was regularly withdrawn without using the earlier available cash in hand from previous withdrawal, which is not a normal human behavior.

4.4 *Thus, I do not find much force in this argument of the appellant that the cash withdrawn from the bank was kept at home without depositing it during demonetization period. The appellant has not been able to substantiate this argument with documentary evidence. Accordingly, I do not agree with the contentions of the appellant and hold that Ld AO has correctly applied the provisions of section 69A r.w.s 115BBE of the Act. Grounds of the appellant are dismissed."*

7. We have heard the rival contentions and perused the material available on record. The assessee has explained the source of cash deposit of Rs. 14,00,000/- during the demonetization period out of earlier cash withdrawals as made from his two bank accounts made from time to time during the first ten months of the financial year relevant to impugned assessment year. To corroborate the same, he has furnished copy of his bank statements as well as the explanation regarding withdrawals to meet household expenses, construction of house and for his sister's illness who later on met with untimely death and expired on 03/11/2016. There are total cash withdrawals from the two bank accounts to the tune of Rs 39,44,500/- and after meeting all these expenses totaling to Rs 20,00,000/-, he was left with Rs 19,44,500/- and out of which, Rs 14,00,000/- was deposited on 15/11/2016 which still leave an amount of Rs. 5,44,500/- as cash in hand. The Id CIT(A) has also not disputed the quantum of such withdrawals and purpose for which such withdrawals were made as can be seen from his findings where he says that "the perusal of the cash withdrawal made from the beginning of the financial year till the end of October show that the appellant has been withdrawing cash at regular interval to meet various expenses, e.g., household, construction of house and for the illness of his sister" at the same time, he records his findings that there is no evidence to show that the cash was being accumulated for meeting certain contingencies. In this regard, we find that the assessee right from the assessment proceedings as well as during the appellate proceedings has stated that he has withdrawn cash for meeting health bills of his sister who had fallen ill and who later on expired during that period only. The ill health of the assessee's sister is clearly a medical contingency and one cannot be expected to know in

advance the likely hospital bill that one has to bear and therefore, where the assessee has withdrawn cash for such medical contingency and has spent amount therefrom and the remaining amount left unspent has been deposited back in the bank account, we find that the assessee's explanation deserves to be accepted and no adverse view can be taken in this regard as he has sufficiently and adequately explained the source of cash deposit as out of earlier withdrawals made during the financial year from his two bank accounts. In the result, the addition so made and sustained by the Id CIT(A) is hereby directed to be deleted.

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

Order pronounced in the open Court on 23.12.2024.

Sd/-

परेश म. जोशी
(PARESH M. JOSHI)
न्यायिक सदस्य / JUDICIAL MEMBER
MEMBER

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar