

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.357/Ind/2024
(Assessment Year: 2017-18)

Rohidas Chirmade Village D Abhiyakheda, Nepanagar Nepanagar (Appellant / Assessee)	Vs.	ITO Burhanpur (Respondent/ Revenue)
PAN: APSPC0591H		
Assessee by	Shri Hitesh Chimnani, AR	
Revenue by	Shri Sanjeev H. Bhagat, Sr. DR	
Date of Hearing	11.12.2024	
Date of Pronouncement	13.12.2024	

ORDER

Per Vijay Pal Rao, VP :

This appeal by assessee is directed against the order dated 07.03.2024 of the Commissioner of Income Tax (Appeal) National Faceless Appeal Centre (NFAC) Delhi, for A.Y.2017-18. The assessee has raised following grounds of appeal:

"1. That on the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in confirming the addition of Rs.10,50,000/- made by the Ld. AO towards cash

deposited in bank account by treating it as unexplained cash deposits u/s 69A of the I.T. Act 1961."

2. Ld. AR of the assessee has submitted that the assessee is agriculturists having income from agriculture, salary and other sources. Since the income of the assessee was exempt and below the minimum taxable income therefore, no return of income was filed by the assessee. The AO issued a notice u/s 142(1) requiring assessee to furnish return of income and thereafter framed the assessment u/s 144 of the Act whereby the AO has made an addition of Rs.10,50,000/- on account of cash deposit in the bank account during the demonetization period. Ld. AR has further submitted that the assessee has duly filed the reply before the AO and explained the source of the cash deposit in bank account as opening balance of cash of Rs.10,76,000/- as withdrawal from the HDFC bank account. Thus, the assessee has explained the source of the deposit made in the bank account. Ld. AR has further submitted that while making addition the AO has considered only Kisan Credit Card account of the assessee but has not considered opening balance in the Saving Bank account of the assessee with HDFC. The CIT(A) has also confirmed the addition made by the AO by ignoring the facts that the assessee was having Rs.10,76,000/- as opening cash balance as withdrawn from the HDFC Bank account. He has referred to the Kisan Credit Card with HDFC bank as well as Saving Bank Account with HDFC bank and submitted that the assessee has taken a credit facility of Rs.12,40,463/- in the Kisan Credit Card Account which was transferred to the assessee's bank account no.50100147660892

and thereafter on 24.02.2016 an amount of Rs.12,20,000/- was withdrawn by the assessee from the said bank account. The CIT(A) has confirmed the addition by considering only Kisan Credit Card Bank Account no.50200017531800. Thus, the addition has been confirmed by the CIT(A) by rejecting claim of the assessee of opening cash balance of Rs.12,20,000/-. Hence Ld. AR has submitted that the addition sustained by the CIT(A) is highly arbitrary and liable to be deleted. The CIT(A) has duly recorded reply of the assessee at page no.4 of the impugned order but ignored the relevant facts of availability of opening cash balance while passing the impugned order.

3. On the other hand, Ld. DR has submitted that the claim of the assessee is not acceptable as the alleged withdrawal of Rs.12,20,000/- on 24.02.2016 was utilized by the assessee for purchase of agricultural land on 13.02.2016. Therefore, the claim of opening cash balance of the assessee is not acceptable as cash was also utilized by the assessee and not available as on 01.04.2016. He has relied upon the orders of the authorities below.

4. In rejoinder Ld. AR of the assessee has submitted that the agricultural land was purchased on 13.02.2016 for a consideration of Rs.8 lacs and was sourced from independent and separate family funds. A land was purchased in the name of elder brother (since deceased) of the assessee.

5. We have considered rival submissions as well as relevant material on record. The AO has made addition of Rs.10,50,000/- on account of unexplained cash deposit in the bank account during the demonetization period. The assessee challenged the action of the AO before the CIT(A) and reiterated its contention that the source of deposit made in the bank account is from the opening cash balance available with the assessee. In support of this contention the assessee referred to two bank accounts of the assessee, one is Kisan Credit Card loan account and another is Saving Bank Account maintained with HDFC Bank. The relevant part of the assessee's reply is placed in para 7 & 10 reproduced by the CIT(A) at page no.4 as under:

"7. The assessee also submitted a details cash flow statement which clearly explained the source of each deposit. The Ld. AO during the assessee has not doubted the entries marked therein and has only raised doubt regarding the opening balance of cash mentioned in the said statement.

8.xxxxxxxxxxxxxxxxxxxxx

9.xxxxxxxxxxxxxxxxxxxxx

10-The Ld. AO overlooked the fact that the assessee had 2 bank accounts with the HDFC Bank accounts and the amount was withdrawn from the bank account with No. 50100147660892 whereas the Ld. AO has only considered the bank account with account No. 50200017531800. The relevant bank statements of both accounts are submitted along with a certificate from HDFC Bank personnel stating that the amount has been withdrawn from the account (with account no 50100147660892) by the assessee on the abovementioned date."

5.1 Thus, the assessee has pointed out before the CIT(A) that the AO over looked the fact that the assessee has two bank accounts with HDFC, one is Kisan Credit Card loan account and another is Saving

Bank Account. The assessee has also produced the bank account statements of these two accounts which shows that the assessee has taken loan of Rs.12,40,463/- from KCC account no.50200017531800 which was transferred to the Saving Bank account of the assessee bearing no.50100147660892. These entries are the matter of record as reflected in the bank account of the assessee. Therefore, obtaining the loan of Rs.12,40,000/- which was transferred to the Saving Bank Account of the assessee and thereafter on 24.02.2016 the assessee has withdrawn a sum of Rs.12,20,000/- cannot not be disputed. Though, Ld. DR has submitted that this amount was utilized for purchase of agricultural land however, the land was purchased prior to the withdrawal from the bank account and therefore, the cash withdrawn from the bank cannot be treated as utilized for payment of cash in respect of prior transactions of purchase of agricultural land. The CIT(A) has confirmed the addition made by the AO in para 5.5. as under:

"5.5 The appellant primary issue is that the AO overlooked the fact that the demonetized currency notes deposited to his bank accounts were the result of cash- in-hand. It is an undisputed fact that the appellant during the year under consideration has shown income including agriculture activities. The appellant submitted before me that he has earlier withdrawals from the bank account of the assessee and the opening balance of the cash available with the assessee. The withdrawal from HDFC No. 50200017531800 on 22.2.2016 and opening cash balance of Rs. 10,76,154/- as on 01.04.2016. However, no such details of cash withdrawal and cash-in-hand was submitted before me. All such details was filed before the AO who after independent verification reached to the conclusion that there was no cash-in-hand as claimed by the appellant before the AO and hence after considering all relevant facts added Rs. 10,50,000/- as unexplained cash deposit u/s 69A of the Act read with section 115BBE of the Act. Considering the findings of the Id AO and my observation made above, I find no reason

to alter the decision of the Id AO and accordingly confirm the addition of Rs. 10,50,000/-. The ground No.2 of appeal is dismissed."

5.2 Thus, the CIT(A) has also made a reference of one bank account which is KCC loan account of the assessee and not the saving bank account of the assessee from where the assessee withdrawn the said amount of Rs.12,20,000/-. Therefore, the claim of opening cash in hand balance of the assessee was rejected by the CIT(A) ignoring the relevant facts and evidences in the shape of Saving Bank Account statement of the assessee from where the assessee withdrawn a sum of Rs.12,20,000/- on 24.02.2016. Accordingly in the facts and circumstances of the case the addition made by the AO on this account is deleted.

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

Order pronounced in the open court on 13.12.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Vice President

Indore, _ 13.12.2024

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*