



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.782/RJT/2024

Assessment Year: (2017-18)

(Hybrid Hearing)

Hiren Dasani (Legal Heir) Tapulal Nathalal Dasani, 17 Dasani Tapulal Nathalal, Khakchowk, Porbandar, 360575, Gujrat, India	Vs.	Income-Tax Officer, Ward-2(3), Porbandar.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ACJPD9031B		
(Assessee)		(Respondent)

Assessee by : Shri Sagar Shah, Ld. A.R.
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 06/01/2025
Date of Pronouncement : 20/01/2025

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), which in turn arises out of an assessment order passed by Assessing Officer u/s 143(3) of the Income tax Act 1961 (herein after referred to as the Act), vide order dated 09.12.2019.

2. Although, in this appeal, the assessee has raised a multiple ground of appeal, however, at the time of hearing the solitary grievance of the assessee is, the ld. CIT(A), as well as the assessing officer was erred in making addition of Rs.



22,78,500/-, on account, cash deposit in the bank account. Therefore, all the grounds raised by the assessee are being disposed, as one.

3.The brief facts necessary to be noted for the purpose of disposal of this case are as under: The assessee before us, is an individual and has filed his return of income for the assessment year (A.Y.) 2017-18, u/s 139 of the Income-tax Act, 1961, showing net income of Rs. 7,85,850/- (Income from other sources Rs. 7,87,318/- and claiming deduction under chapter VI-A of Rs. 1,465/-). The assessee's case was selected through CASS (Limited) Scrutiny for assessment year (A.Y.) 2017-18. Accordingly, a notice u/s 143(2) was issued by the Income-tax Officer, Ward 2(4), Porbandar, on 09.08.2018, through ITBA and accordingly duly sent to the assessee on e-filing account of the assessee.

4. In response to these notices, the assessee submitted his reply before the assessing officer, along with following documents and evidences, Viz:(i) Copy of ITR and Ack. for A.Y. 2017-18, (ii) Copy of Computation of Income, (iii) Bank statement and (iv) Letter of Authority. The assessing officer, also issued further notices to the assessee to produce relevant evidences regarding cash deposit made during demonetization period. In response, the assessee submitted his reply before the assessing officer on 25.10.2019, along with evidences, such as, Balance sheets for assessment years 2015–16, 2016–17, 2017–18, copy of income tax returns for assessment years, 2013–14, 2014–15 2015–16, 2016–17 and 2017–18. The assessee also submitted copy of cashbook for the assessment years 2015–16, 2016–17, and 2017–18. The assessee also submitted confirmation ledgers of debtors, which were never cross verified by assessing officer by issuance of notices under section 133(6) of the Act, during the assessment proceedings. The assessee, further submitted his reply before the



assessing officer on 03.12.2019. In these replies, the assessee submitted before the assessing officer that assessee is engaged in a retail business where cash transactions are involved and assessee has been depositing cash in the bank account in the previous years from the proceeds from sale of goods and has also deposited the cash in the bank account in subsequent years. Further, the cash deposited during the year is less than the cash deposited in the previous years, in the same corresponding months. Therefore, the assessee stated before the assessing officer that no addition should be made on this account.

5. However, the assessing officer, rejected the contention of the assessee and held that an amount of Rs. 22,78,500/-, deposited in the bank by the assessee remains unexplained, therefore, assessing officer added the same amount to the total income of the assessee u/s 69A of the Act.

6. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has confirmed the action of the assessing officer. The Ld. CIT(A) observed that assessee has failed to prove the genuineness of the cash deposited in the bank account. The Ld. CIT(A) has also held that assessee has failed to prove the genuineness of cash received from debtors and the cash deposited in the bank account. Therefore, ld. CIT(A) confirmed the addition made by the assessing officer. Aggrieved by the order of the ld. CIT(A), the assessee is in further appeal before us.

7. Learned Counsel for the assessee, vehemently argued that the assessee, in the previous years, has been depositing the cash received from Customers, in the bank account, in the same pattern, as the assessee, deposited the cash in the year under consideration. Since, the assessee is engaged in retail business, which is



cash-oriented business, where customers pay cash to the assessee. The Id. Counsel further stated that assessing officer has erred in law as well as on facts that since, the assessing officer, has already accepted and appreciated the facts that before demonetization between 1/4/2016 to 8/11/2016, the amount of Rs. 17,53,800/-, has been deposited into the bank account which is not disputed and considered, as such then why and on what reasons the money which was received from the debtors, available with the assessee, yet to be deposited into the bank account and deposited into the bank account, has been disputed, which is against the facts, and prejudicial and therefore the addition so made is required to be deleted. Besides, the assessee submitted during the assessment proceedings, plethora of documents and evidences, which were neither discredited and rebutted by the lower authorities, therefore addition made by the assessing officer may be deleted.

8. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

9. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. We find that assessing officer, has failed to appreciate the fact that the assessee has deposited a sum of Rs. 22,78,500/-, which is from the receipt of money from debtors and opening cash on hand available in the Balance sheet. The assessee submitted the Balance sheets for assessment years 2015–16, 2016–17, 2017–18, before the assessing



officer and cashbook for the assessment years 2015–16, 2016–17, and 2017–18, wherein we find that adequate opening cash balance is available. We also note that assessing officer failed to appreciate the fact that a sum of Rs. 22,78,500/-, which is already recorded in the books of accounts, being the money realized from the debtors and therefore invoking of the provisions of section 69A of the Act, is incorrect, particularly, when the assessing officer has partly accepted the receipt of cash from debtors, based on the signed confirmation letters from the debtors, with their address, submitted by the assessee, during the assessment proceedings.

10. We note that during the assessment proceedings and during the appellate proceedings, the assessee has submitted the following documents and evidences before the assessing officer as well as before the Ld. CIT(A). The list of the documents submitted before the lower authorities are Viz:(1) Death certificate of the assessee (Page-A1),(2) Balance sheet of F.Y. 2014-15 (Page-1),(3) Balance sheet of F.Y. 2015-16 (Page-2),(4) Balance sheet of F.Y. 2016-17 (Page-3),(5) ITR of F.Y. 2012-13 (Page-4-6),(6) ITR of F.Y. 2013-14 (Page-7-9),(7) ITR of F.Y. 2014-15 (Page 10-12),(8) ITR of F.Y. 2015-16 (Page 13-15),(9) ITR of F.Y. 2016-17 (Page 16-20),(10) Cash book of F.Y. 2014-15 (Page 21-31),(11) Cash book of F.Y. 2015-16 (Page 32-33),(12) Cash book of F.Y. 2016-17 (Page 34-44),(13) Confirmation ledgers of Debtors which was never cross verified by assessing officer by issuance of notice u/s 133(6) of the act during the course of assessment proceedings (Page-45-56).



11. We have observed that assessee has submitted his balance sheet for F.Y. 2014-15, relevant to A.Y. 2015-16, on page 1 of the paper book, where we find the sufficient cash in hand, available. The assessee has submitted balance sheet for F.Y. 2015-16, relevant to A.Y. 2016-17, on page 2 of the paper book, where sufficient cash balance is also shown. The assessee also submitted balance sheet for F.Y. 2016-17, relevant to A.Y. 2017-18, on page 3 of the paper book, where opening cash balance is shown. The point that had to be examined by the assessing officer was whether what was disclosed in the books of accounts was also disclosed in the returns filed by the assessee. If it was not disclosed, then possibly the assessing officer could have reasons to believe that the cash deposits reflected in the books of accounts may have escaped assessment. However, no effort appears to have been made by the assessing officer to examine the returns filed by the assessee in assessee's case, under consideration.

12. We note that assessee is in retail business where only cash is received by the assessee from its customers. Therefore, assessee has deposited cash in the bank account not only in this year, but in previous years and subsequent years also. The assessee also deposited cash in bank account before and after the demonetization period, in the same pattern, hence cash deposit in the bank account during the year under consideration should not be doubted. We do not find exceptional or abnormal cash deposit in the bank account. We also find that assessee has furnished plethora of documents and evidences before the assessing officer as well as before the Id. CIT(A), to prove genuineness of the cash deposit in the bank account, which were not appreciated by both the lower authorities. We note that assessing officer has not refuted or discredited these evidences and documents. The assessing officer does not mention why he is not



accepting these evidences. On the contrary, the assessing officer has just brushed aside these evidences without even a word on why they are not acceptable. It is a well settled Law that when an assessee has all the possible evidence in support of its claim, they cannot be brushed aside based on surmises. Hence, we are not inclined to accept the contention of the Assessing Officer in any manner and hence the addition so made is deleted. Hence this ground of the assessee is allowed.

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

Order is pronounced in the open court on 20/01/2025

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

**Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 20/01/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot