



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

आयकर अपीलसं./ITA No.110/RJT/2024
Assessment Year: (2017-18)
(Hybrid Hearing)

Hamirbhai Rahabhai Shiyalia. Momai Kripa, Bhomeshwar Plot, Street No.6, Rajkot-360006	Vs.	The ITO Ward-2(2)(5), Rajkot.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BGZPS3756B		
(Appellant)		(Respondent)

Appellant by : Shri Rashmin Vekariya, Ld. A.R.
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 23/12/2024
Date of Pronouncement : 22/01/2025

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by assessee pertaining to Assessment Year 2017-18, are directed against order passed by Commissioner Of Income Tax (Appeal), Order dated 26/12/2023, which intern arises out of order passed by Assessing Officer dated 30/12/2019 u/s 144 of The Income Tax Act, 1964.

2. Grounds of appeal raised by the assessee are as below:

1). *The Ld. CIT(A) erred in confirming the addition of Rs. 16,05,200/- made u/s 69A of the Act being cash deposits in bank account. The addition may kindly be deleted.*

3. Facts of the case are that assessee is an individual for A.Y. 2017-18. In this case assessee has not filed his return of income for A.Y. 2017-18. During



the period of the demonetization from 09/11/2016 to 30/12/2016, The assessee has made cash deposit of Rs. 20,08,000/-

Total Cash Deposit- Rs. 20,08,000/-

Bank Name-

Federal Bank : Rs. 17,59,000/-

Canara Bank : Rs. 04,02,800/-

4. In response to the notice dated 14/06/2019 assessee submitted his reply vide letter dated 23/07/2019. He has submitted copy of 7/12 & 8A utara related to agricultural activities and agricultural product bills dated 06.11.2016 of Rs.4,52,655/-. He has enclosed proof regarding payment of housing loan (copy of Federal Bank statement for the period 12.04.2014 to 31.03.2017). He has explained the source of cash deposit as under

Rs.4,02,800/- out of his own savings and income from agricultural activity

Rs.16,05,200/- Gift received from his relatives (like Mother, wife & Aunty)

Sr. No.	Date	Name	Relationship	Amount
1	12.11.2016	RatanbenSabhad	Aunty	3,92,5007-
2	12.11.2016	ManabenSabhad	Aunty	3,98,5007-
3	12.11.2016	PamubenShiyalia	Wife	3,25,5007-
4	12.11.2016	LilubenShiyalia	Mother	4,88,7007-
Total:-				16,05,200/-



5. Assessee has also stated that above amount was received as gift from his aunty that amount was utilized for repayment of housing loan. He has produced confirmation letter (Affidavit) of above all the persons from whom he has received gift. However assessment was framed u/s. 144 of the Income Tax Act, 1961 and addition of Rs. 16, 05,200/- has been added to the total income of the assessee.

6. Feeling aggrieved by the order passed by the Ld. AO u/s 144 of the I.T. Act, 1961 dated 30/12/2019. Assessee filed an appeal before the Commissioner of Income Tax (Appeals) [in short, "the Ld. CIT(A)"], NFAC. During the appellate proceedings CIT(A) has issued e-notices to the assessee on email id kishan447@icloud.com. But no response has been filed by the assessee in reply to the notices. The Ld. CIT(A) dismissed the appeal of the assessee vide order dated 26/12/2023

7. Assessee filed an appeal against the impugned order passed by the CIT(A), NFAC dated 26/12/2023 before us.

8. Ld. Counsel of the assessee (AR) submitted assessee could not comply because no notices were served on the assessee. Since the assessee is an illiterate person and do not know about the proceedings going before the CIT(A). Ld. Counsel of the assessee (AR) requested that an opportunity should be granted to explain the matter to the lower authorities.

9. Ld. Sr. DR on behalf of the revenue submitted that notices were given to the assessee but the assessee did not comply with the notices. However, Ld. Sr. DR has not objected to the prayer of the assessee.

10. We have heard both the parties and perusal of the on records available. We have noted that CIT(A) issued the notices on email submitted by the assessee in Form No.35. However, Order of the CIT(A) is silent on serving of



the same notices upon the assessee. We note that Ld. CIT(A) uphold the order of the Ld. AO. We have also noted that during the assessment proceedings in response to the notices assessee submitted the sales bill of agricultural products and details of payment of housing loan and also submitted affidavit regarding the gifts received from the relatives but finally assessment was passed ex-parte by The CIT(A). According to the facts of the case we note that the case was not adjudicated before the Ld. AO. We are of the view that an opportunity should be given to the assessee to frame an order of assessment after given due opportunity to the assessee and assessee is directed to appear before the Ld. AO as notices served by the Ld. AO. Therefore, We set asides the order of lower authority and remit the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard.

11. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 22/01/2025

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

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Rajkot
दिनांक/ Date:22/01/2025

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