

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.390/RJT/2024

Assessment Year: (2017-18)

(Hybrid Hearing)

Ramju Haroonbhai Kewar Office No. 35, Tolani Chamber Plot No. 2, Sector – 8, Gandhidham – 370201	Vs.	The ITO Ward-2, Gandhidham - 370201
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AHUPK5299E		
(Appellant)		(Respondent)

Appellant by : Written Submission/ Paper Book
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 21/01/2025
Date of Pronouncement : 22/01/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 31.03.2024, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 154 of the Income Tax Act, 1961 (in short “the Act”).

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

- 1) The order of the learned CIT(A) u/s. 250 is bad in law and contrary to the facts of the case.*
- 2) The learned CIT(A) has erred in confirming the addition of Rs. 59,10,950/- to the returned income as unexplained money u/s. 69A of the Act.*



- 3) The learned CIT(A) has erred in confirming the addition for cash deposit aggregating to Rs. 40,00,000/- made in the bank account during the demonetization period.
- 4) The learned CIT(A) has erred in confirming the addition of Rs. 19,10,959/- for the rest of the deposit/credit entries in the bank account during the year.
- 5) The learned CIT(A) has passed adequate opportunity of being heard to the appellant.
- 6) The order of the learned CIT(A) is unjustified, illegal and against the principles of *natura justice*.
- 7) Without prejudice to the above your appellant craves leave to add, amend, alter vary or withdraw all or any of the grounds on or before the hearing of appeal.

3. Briefly, stated facts of the case are that the assessee “Ramju Haroon Briefly stated Kewar”(hereinafter referred to as ‘Appellant’) is an individual and filed his return of income for AY 2017-18 on 04.08.2017 declaring total income of Rs. 2,89,000/-. The case of the appellant was deleted for scrutiny through CASS and notices u/s. 143(2)/142(1) were issued time to time calling for various information. In response to the said notice, the appellant filed only part submission. On perusal of the submission made by the appellant and the ITR for AY 2017-18, the AO observed that the appellant had shown gross income of Rs. 3,40,242/-. The AO further observed that the appellant has shown presumptive income of Rs. 68,000/- on total business receipts of Rs. 8,50,000/-, remuneration of Rs. 70,000/- from partnership firm and other income of Rs. 2,02,242/-. On perusal of the bank statements of the appellant, the AO noticed that the appellant had made deposits in his bank account as under:

Name of the Bank	Account No	Account holder Name	Cash deposits during demonetization period	Total credit (Rs.)
The Gandhidham Mercantile Co- op Bank Ltd.	10012001007666	Aalia Bulk Carrier (proprietary concern of assessee)	40,00,000/-	56,24,000/-
	10011001010198	Kewar Ramju harun		20,96,959/-
Total credit amount in above bank accounts				77,20,959/-



Further, the AO found that a credit entry of Rs. 18,10,000/- reflected on 01/12/2016 in bank A/c No 10011001010198 was transferred from A/c No 10012001007666. Therefore, the appellant was asked to explain the source of remaining deposit/credit entries of Rs. 59,10,950/- (Rs. 77,20,959/- - Rs. 18,10,000/-), however, the appellant failed to furnish any documentary evidences of the said deposits/credit entries. Since the appellant failed to make any cogent explanation regarding the source of the cash deposits/credit entries, the AO treated the said deposits as unexplained money u/s 69A of the Act. Subsequently, the AO completed the assessment u/s. 144 r.w.s. 143(3) of the Act based on the evidences available on record by making an addition of Rs. 59,10,950/- on account of unexplained money u/s. 69A of the Act. Aggrieved by the order of the AO, the appellant preferred the present appeal.

4. That the appeal was dismissed by Ld. CIT(A) on dated 31.03.2024. On the ground that appellant is not interest in pursuing the appeal.

5. That the assessee filed an appeal against the impugned order dated 31.03.2024 before us.

6. Ld. AR of the assessee submitted that the appellant could not comply the notice of the Ld. CIT(A). Ld. AR prayed for an opportunity to explain the case before the Lower Authority.

7. Ld. DR for the revenue, relied on the order of Ld. CIT(A) and not objected the request of the Ld. AR.

8. We have heard both the parties and perused the material available on record. We note that four notices have been issued by the Ld. CIT(A), but there was no compliance to the notice except asking for an adjournment of hearing by the assessee. We further note that the Ld. CIT(A) has dismissed the appeal with a view that assessee is not interested in contesting the case. We further note that in response to notice of Ld. AO, the assessee



has partly e-filed the submission and stating that the remaining submission will be filed later on 13.09.2019. The Ld. AO was passed Ex-parte u/s. 144 of the Act on 01.12.2019. We note that the assessee deserves an opportunity to be heard. Therefore, we are of the view that an opportunity should be given to the assessee to present his case before the Ld. AO. We set aside the order of Ld. AO 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.

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

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

Sd/-

(Dr. A.L. SAINI)
ACCOUNTANT 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

Sd/-

(DINESH MOHAN SINHA)
JUDICIAL MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot