

**IN INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI. KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2380/Bang/2024
Assessment Year : 2017-18

Shri. Nanjappa Vijay Shankar, 106 First Floor DS Max Saaga Apt, Turahalli Subramanyapura Post, Uttarahalli. PAN :AVTPS 9977 N	Vs.	ITO, Ward – 5(3)(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Varsha N Ratan, AR
Revenue by	:	Shri. Subramanian S, JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	09.01.2025
Date of Pronouncement	:	17.01.2025

ORDER

Per Laxmi Prasad Sahu, Accountant Member :

This appeal filed by the assessee against the ex-parte Order passed by NFAC vide DIN and Order No.ITBA/NFAC/S/250/2024-25/1069511594(1) dated 08.10.2024 passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’).

2. Briefly stated the facts of the case are that assessee is an individual filed his return of income in ITR-1 on 04.11.2017 declaring gross total income of Rs.7,26,430/- which constituted salary income of Rs.8,93,342/-, loss from house property of Rs.166,912/- and claimed deduction under Chapter VIA resultantly total income was calculated at Rs.5,72,210/-. The case was selected

for scrutiny to verify the cash deposited and transaction in property. Accordingly, statutory notices were issued and duly served to the assessee. In response, the assessee has filed reply dated 21.09.2018 which is incorporated by the AO in his Order. The assessee has given detail of the source of purchase of property and stated that out of own savings and taken unsecured loan given earlier received back and taken unsecured loan from friends and relatives and assessee has also taken loan from DHFL totaling to Rs.82,85,807/-. The assessee has also furnished bank account statement of HDFC and Axis Bank. There was cash deposit in account No.50100008637412 in HDFC bank of Rs.2,51,000/- and in account No.052010100170802 in Axis Bank account of Rs.14,32,500/-. During the course of assessment proceedings, the AO accepted loan taken of Rs.82,85,807/- towards purchase of the property but explanation regarding cash deposit in HDFC and Axis Bank noted of Rs.16,83,500/- were not accepted. The assessee has submitted that the cash deposit is out of savings and loan taken and his wife's savings. His wife is a teacher and she takes some private tuitions and her personal savings were deposited in the bank account. The AO did not accept the cash deposited into bank account and added into the total income of the assessee under section 69 of the Act and applied tax rate as per section 115BBE of the Act.

3. Aggrieved from the above Order, assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

4. Aggrieved from the above Order, assessee filed appeal before the Tribunal. The learned Counsel for the assessee reiterated the submissions made before the lower authorities and submitted that the cash deposited into bank account is out of loan taken from friends and relatives and out of past savings. His wife is a graduate and is taking tuitions. The AO at one side has accepted the purchase of property out of details given of Rs.82,85,807/-. The

cash deposited into bank account is out of the above amount. Therefore, she requested that the appeal may be allowed.

5. On the other hand, learned DR relied on the Order of the lower authorities and submitted that the assessee was unable to provide with cogent material to substantiate the cash deposited as observed by the CIT(A) . Therefore, the Order of the CIT(A) should be confirmed.

6. Considering the rival submissions, we noted that the CIT(A) has partly allowed the appeal of the assessee and he has only disputed cash deposited of Rs.2 lakhs on 26.09.2016 and Rs.80,000/- on 16.01.2017 for want of explanation of cash deposited in Axis Bank account and cash deposited in HDFC bank account. On going through the Order of the lower authorities, we noted that the assessee has taken unsecured loan which is accepted by the AO. The CIT(A) has noted that on 26.09.2016 and 16.01.2017. The assessee was unable to explain the source which is not correct as observed by the revenue authorities. There is an explanations submitted by the assessee in this regard “deposit out of savings from withdrawals in earlier period and out of transfer borrowings from friends and relatives. The AO has accepted the unsecured loans and own savings and further in respect of deposit in HDFC Bank of Rs.2,51,000/- we are in agreement with the arguments advanced by the assessee that his wife is taking tuition and she has given money for depositing in bank. We also noted that the assessee has deposited cash in Axis Bank from 20.04.2016 to 16.01.2017 on different dates which is not disputed. Therefore, considering the totality of the facts and circumstances of the case, we allow appeal of the assessee.

7. In the result, appeal filed by the assessee is treated as allowed.

Pronounced in the court on the date mentioned on the caption page.

Sd/-

(KESHAV DUBEY)
Judicial Member

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore,
Dated : 20.01.2025.
/NS/*

Copy to:

1. Appellant 2. Respondent 3. Pr.CIT 4.CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.