



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।  
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.914/RJT/2024

निर्धारणवर्ष /Assessment Year: 2017-18

Shri Girishkumar Jamnadas Bhalodiya Kishan, Shashtri Nagar Jamanava Road, Dhoraji.	बनाम Vs.	ITO, Ward-2(2)(6) Rajkot.
स्थायीलेखासं/.जीआइआरसं/.PAN/GIR No.: <b>ACBPB4076E</b>		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

Assessee by : Shri Fenil H. Mehta, Ld.AR  
Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr-DR  
Date of Hearing : 28/01/2025  
Date of Pronouncement : 11 /02/2025

**ORDER**

**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)/National Faceless Appeal Centre, Delhi[in short 'Ld. CIT(A)/NFAC'], under section 250 of the Income-tax Act,



1961 (hereinafter referred to as 'the Act'), dated 07.10.2024, which in turn arises out of an assessment order passed by the Assessing Officer u/s143(3) of the Income Tax Act, 1961, vide order dated 04.12.2019.

2. The grievances raised by the assessee in the appeal are as under:

*“(1) That the Ld. CIT(A), NFAC has grievously erred in law and on facts in upholding the action of the ld. Assessing Officer, in making the addition of Rs.17,92,000/- u/s.69A of the Act, by treating the cash deposits as unexplained money.”*

3.The facts of the case which can be stated quite shortly are as follows: The assessee, before us, is an individual, and has filed his return of income for the assessment year (A.Y.) 2017-18, on 07.07.2017, through e-filing system, declaring total income at Rs. 6,58,380/-. The assessee's case was selected for scrutiny assessment proceedings, through CASS for "Limited Scrutiny" to verify the issue " Cash deposit during demonetization period". Accordingly, a notice u/s 143(2) of the Income Tax Act, was issued on 28.09.2018, through ITBA and served upon the assessee. On verification of the records and from information available, it was noticed by the assessing officer that assessee has, deposited cash of Rs. 21,98,000/- in bank account No. 32383061390 with SBI, Motimara Branch.

4.During the assessment proceedings, the assessing officer issued show- cause notice to the assessee, asking him to explain the source of cash deposits. In response to the show -cause notice, the assessee has submitted his reply before the Assessing Officer, stating that source of cash deposit was from opening cash balance, past savings and withdrawal from provident fund; and withdrawal of cash from bank and P.F. account, to construct house, however, due to adverse



situation, later on, the idea to construct house was dropped by the assessee therefore, money was re-deposited in bank account. On such submission of the assessee, the assessing officer accepted part reply of the assessee, and therefore did not make the addition to the extent of Rs.4 lakhs. However, the assessing officer made the balance addition of Rs.17,98,000/- (Rs.21,98,000-Rs.4,00,000) under section 69A r.w.s. 115BBE of the Act.

5. 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. During the appellate proceedings, the assessee has submitted written submissions before Ld. CIT(A), as well as details and documents, such as, cash book, bank book, pass-book, proof of withdrawal from the PF etc. The assessee also submitted various income tax returns filed by the assessee, wherein adequate amount has been disclosed by the assessee, as cash in hand, and opening cash balance. The assessee submitted that he had sufficient cash balance of Rs.23,12,190/- on 18.11.2016, out of which, the amount of Rs.21,98,000/- was deposited in SBI bank account. However, the Ld. CIT(A) rejected the assessee's contention and confirm the addition made by the assessing officer.

6. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

7. Shri Fenil H. Mehta, Learned Counsel for the assessee, argued that during the assessment proceedings, the assessee has submitted the following documents and evidences, before assessing officer.

- i) Copy of cash book from the books of the appellant (PB Page No.30-37).



- ii) Copy of bank book from the books of the appellant (PB Page No.38-46)
- iii) Copy of SBI bank passbook of the appellant having account number 32383061390 (PB Page NO.47-65)
- iv) Provident Fund withdrawal slips (PB Page No.66-67)
- v) Acknowledgement of return of income of the appellant for AY 2003-04 to AY 2017-18 (PB Page NO.68-82)

The Ld. Counsel for the assessee, referring to the above documents (submitted before the lower authorities), argued that Assessing Officer did not find any error or mistake in these documents and evidences. The ld. Counsel stated that the assessee under consideration is a school teacher by profession in Government school and has been teaching since 1981. The assessee has been filing the return of income since long and the assessee has income from salary, and in addition to this, assessee has withdrawn the amount from PF on 13.4.2015 to the tune of Rs.4.72 lakhs, and also has the withdrawal from PF account on 9.9.2014 of Rs.3.18 for construction of a house. However, the assessee could not construct the house due to some adverse situation, therefore, the amount was kept by him for the purpose of construction of residential house, has been re-deposited in the bank account. The assessee has also withdrawn cash from the bank account for medical emergency, just before the demonetisation period and the same was kept by the assessee for medical emergency, and the said amount was also deposited in the bank account. Therefore, the amount deposited in the bank account has been properly explained by the assessee, hence, addition made by the assessing officer may be deleted.



8. On the other hand, Learned DR for the Revenue, submitted that assessing officer, as well as, Ld. CIT(A) passed a detailed order and reasonable relief was already granted to the assessee, by the assessing officer, therefore, the assessee does not deserve further relief. The ld. DR pointed out that the amount withdrawn from the PF, was to be used by the assessee for the specific purpose, and not for re-deposit the said amount in the bank account. The ld. DR also pointed out that a salary employee, having a salary in the range of Rs.48,000/- to Rs.49,000/-, per month is not expected to deposit the cash in the bank account, therefore, the addition made by the Assessing Officer may be sustained.

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 Ld. CIT(A) and other materials brought on record. We note that during the assessment proceedings, as well as appellate proceedings, the assessee has submitted enough evidences to prove such cash deposits in the bank account. We have gone through the PF account of the assessee and noted that the assessee has withdrawn the amount from the PF account, two times, before the demonetisation, period for specific purposes, which was to be utilised for construction of house. However, the construction of house was postponed and such cash was deposited in the bank account. The assessee has withdrawn the amount from the bank account for medical emergency just before the demonetisation period and for that we have verified the bank account and noted that there was a heavy cash withdrawal and the same was re-deposited in the bank account. We also find that cash book maintained by the assessee, since long period, demonstrates that the assessee has sufficient cash in hand which were deposited in the bank account. Therefore, we find that the Assessing



Officer did not discredit any evidence or documents filed by the assessee, and did not point out any mistake or error in the documents, so submitted by the assessee, except to say that the documents and explanation submitted by the assessee are not acceptable. Therefore, it is not justifiable on the part of the assessing officer that where the assessee has all the possible evidences, to prove his claim, and therefore, these possible evidences should not be brushed aside on the basis of surmises and conjectures.

10. We also find that assessing officer has himself given the relief to the assessee to the extent of Rs.4,00,000/- deposited by the assessee, during the demonetisation period. Therefore, other remaining claim of the assessee should not be doubted. The assessing officer just stated that documents and evidences produced by the assessee are not acceptable, without pointing out any specific defects in the documents and evidences so submitted by the assessee. The assessee has been filing the return of income, since a long and the assessee has disclosed opening cash balance in the cash book, which has been maintained by the assessee since long. Therefore, we find that assessee has explained the cash deposit with documentary evidences. For that reliance is placed on the decision of the Coordinate Bench of ITAT Delhi, in the case of Om Parkash Nahar[2022], 135 taxmann.com 377 (Delhi - Trib.), wherein, it was held that where assessee had no source of income apart from rental or pension income and some interest amount and same income had been withdrawn regularly from his bank account owing to his old age and various ailments and even after household withdrawal, there was a huge amount available with assessee in form of cash which he had deposited during demonetization, therefore, without any adverse material it could not be presumed that cash deposited by assessee was



out of some undisclosed source and thus, additions made to income of assessee were to be deleted. The findings of the Coordinate Bench are reproduced below:

*“10. We have heard the rival submissions. After considering the facts and material on record and on perusal of the bank statement, we find that the assessee had been making huge withdrawals from time to time. The assessee is having huge income from rent which is Rs. 2,58,750/- per month which the assessee has been receiving through cheque in his bank account and such rental income has been disclosed in the return of income of Om Prakash Nahar, HUF. Apart from that, assessee is also getting pension from Government of India. Besides this, the assessee has no source of income or is involved in any business or profession. From the perusal of the history of cash withdrawals starting from the financial year 2014-15, we find that assessee has been regularly withdrawing huge cash amount on various dates and there was hardly any credit balance left in his bank account. The funds flow statement as incorporated above clearly shows that each and every withdrawal has been mentioned and utilization thereof and the money being withdrawn from the bank account. Even after house-hold withdrawal, there was a huge amount available with the assessee in the form of cash. Under these facts and circumstances stated by the assessee, it cannot be held to be improbability that assessee did not have any availability of cash at the time of demonetisation. It has not been brought on record whether assessee was carrying out any business or profession or was having income from undisclosed sources of income which can be said to be available with the assessee in the form of cash. If the assessee had no source of income apart from rental or pension income and some interest amount and same income earned regularly has been withdrawn regularly leaving very less cash in the bank account, that shows the pattern that the assessee was indeed in the habit of keeping the money in the form of cash probably looking the old age and various ailments as explained by him. Under these circumstances, we find that the explanation of the assessee to be reasonable and plausible and preponderance of probability is in the favour of the assessee and without any adverse material it cannot be presumed that the cash deposited by the assessee is out of some his undisclosed source. Accordingly, the addition of Rs. 44,13,000/- as sustained by the CIT (Appeals) is deleted.”*

11. Thus, we find that assessee has submitted all the possible evidences to substantiate its cash deposit in the bank account. However, we find that assessee has not been able to prove all its personal expenditure and drawings, which was utilized by the assessee, out of cash withdrawals from bank and balance was re-deposited by him in the bank account. That is, a reconciliation was not submitted by the assessee to that effect. We therefore take into account all these peculiar facts to restrict the impugned disallowance @ 5% of Rs.17,98,000/-, which comes to Rs.89,900/-. Since the assessee has deposited the cash in the



bank account out of recognized sources, therefore, he is not liable to pay tax under section 115BBE of the Act, hence, we direct the assessing officer to tax Rs.89,900/-, by applying the normal rate of income tax.

12. It is made clear that instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year. The Assessing Officer is accordingly, directed to recompute the impugned disallowance @ 5% afresh, as noted by us above. Thus assessee's appeal is partly allowed in above terms.

13. In the result, appeal filed by the assessee is partly allowed, in above terms.

**Order is pronounced in the open court on 11 /02/2025**

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

राजकोट/Rajkot

दिनांक/ Date: 11 /02 /2025

आदेशकीप्रतिलिपिअब्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकरआयुक्त/ CIT
- आयकरआयुक्त(अपील)/ The CIT(A)
- विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

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

By order/आदेशसे,

Assistant Registrar/Sr. PS/PS

ITAT, Rajkot