



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।

IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

And

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.444 /RJT/2024

(निर्धारण वर्ष/Assessment Year: (2013-14))

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|--|-----|------------------------------------|
| Karshanbhai Ranabhai Goraniya C/o. Aavadpan Nileshbhai, Lirbai Para Aayarvadi Nava Vistar Ranavav, Gujarat – 360550 | Vs. | ITO, Porbandar Gujarat – 360550 |
| स्थायी लेखा सं./जीआइआरसं./PAN/GIR No.: BBPPG3373K | | |
| (अपीलार्थी/Assessee) | | (प्रत्यर्थी/Respondent) |

निर्धारिती की ओर से/Assessee by : Shri Sagar Shah, Ld. AR

प्रत्यर्थी ओर से/Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing : 04 /02 /2025

घोषणा की तारीख/Date of Pronouncement : 11 /02 /2025

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to assessment year 2013-14, is directed against the order passed by the Learned Commissioner of Income Tax (Appeal) [in short 'Ld. CIT(A)'], dated 22.04.2024, which in turn arises out of an assessment order passed by the assessing officer.

2. Although, this appeal filed by the assessee, for Assessment Year 2013-14, contains multiple ground of appeals. However, at the time of hearing we have carefully perused all the grounds raised by the assessee and noted that solitary



grievance of the assessee is that Ld. CIT(A) was erred in making addition of Rs. 33,22,000/- u/s 69 of the Act, treating the cash deposits as unexplained money.

3. The facts necessary for disposal of this appeal are stated in brief. The assessee, before us, in an Individual and filed his return of income for assessment year (AY) 2013-14, on 31/07/2013, declaring total income of Rs.1,14,848/-. Later on, the information was received from the DDIT(Inv) Jamnagar stating that the assessee had deposited cash of Rs.37,00,000/-, in saving bank account, during financial year (FY) 2012-13 and the source to the extent of Rs.3,78,000/- was explained and source of remaining cash deposits was not explained with supporting evidences. Based on this information, the case was re-opened u/s 147 of the Act and a notice u/s 148 was issued on 08/05/2020, after obtaining prior approval of PCIT, Jamnagar and was duly served on the assessee. During the assessment proceedings, in response to the notice issued by the assessing officer, the assessee explained the source of cash deposit stating that assessee was engaged in business of selling of milk and the milk which the assessee used to sale were not purchased from the market but produced from livestock the of assessee and moreover, during the year, the assessee has sold the livestock as belonging to him. Thus, assessee explained the genuineness of cash deposited and source of the cash deposited out of cash available from earlier savings and cash received from sale of Bullocks, Cows, Buffaloes & Agricultural land duly supported with the documentary evidences. However, the assessing officer rejected the contention of the assessee and held that assessee failed to prove the sources of cash deposits of Rs.33,22,000/-, therefore the assessing officer made addition of Rs. 33,22,000/- u/s 69 of the Act, treating the cash deposits as unexplained money.

4. Aggrieved by the order of assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A) who has confirmed the action of the assessing



officer. The Id CIT(A) observed that assessee had not explained the sources of the cash deposits in a satisfactorily manner as the creditworthiness of the persons purchasing the cattle have not been proved with reliable evidences. Therefore, Id CIT(A) confirmed the addition made by the assessing officer. Aggrieved by the order of the Id. CIT(A), the assessee is in further appeal before us.

5. Shri Sagar Shah, Learned Counsel for the assessee, pleaded that assessee is an individual and senior citizen residing at the small village and deriving the income from agriculture activity and cattle rearing activity for the relevant financial year. The return of income for the year under consideration was filed on 31.07.2013, by declaring the total income of Rs. 1,14,848/-. Later on, the information was received from the DDIT (Inv.) Jamnagar stating that the assessee had deposited cash of Rs.37,00,000/-, in saving bank account, during FY 2012-13, relevant to assessment year 2013-14 and the source to the extent of Rs.3,78,000/- was explained as proceeds of sale of agriculture land and however, the source of remaining cash deposits was not explained, therefore, based on this information, the assessee's case was re-opened u/s 147 of the Act, and a notice u/s 148 was issued on 08/05/2020. The Learned Counsel for the assessee stated that during the remand proceedings, the assessee has submitted following documents and evidences, before the assessing officer to substantiate its claim:

- (i).Income Tax Return-V and computation of income, for return u/s 148 of the Act, vide page no. 1 to 3 of submission dated 20.02.2021, as a proof of source of income. (paper book page No. 02 to 03.).
- (ii).Form No.7/12 and 8A, the proof for agricultural land holding(Vide page 04 to 07.).
- (iii) Evidences along with Affidavit by purchaser party of cows/buffaloes, as an evidence of sale of cattle and bullock cart, (vide paper book page No. 04 to 07.)



(iv) Affidavit by purchaser party of cows/buffaloes as an evidence of sale of cattle and bullock cart (vide paper book page no. 16 to 28 along with, the reply dated 20.02.2021).

(v).Copy of sale deed (Paper book page no. 31 to 39, along with reply dated 20.02.2021(vide paper book page No. 08-16).

6. The Learned Counsel stated that without verifying any of these above evidences, the alleged addition was made, by the assessing officer, ignoring the actual facts of the case. The Learned Counsel also stated that when the assessee has already provided the explanation of the source of cash deposited into bank account, along with evidences, vide reply to notice, dated 22.12.2020, during appellate proceedings. The Ld. CIT(A) called a remand report from the assessing officer. During the remand proceedings, the assessee submitted the date- wise breakup of cash deposited along with source of such cash deposit and reference of necessary documents. During the remand proceedings, before the assessing officer, the assessee has submitted, the following documents and evidences, Viz: (1). PAN numbers and address of the persons to whom cows, buffaloes and/or a bullock cart and bullocks were sold that is, (i) Rajabhai Ranabhai Modhwadiya (ii) Nagabhai Ranabhat Modhwadiya (iii) Bachubhai Nagabhai Modhwadiya (iv) Rambhai Lakhbhai Khunti. The assessee also submitted the complete and latest correspondence address of above mentioned persons. The assessing officer, by way of issuing notices under section 131 of the Act, should have conducted independent enquiry from the above persons, however, the assessing officer has failed to do so, therefore addition made by the assessing officer may be deleted.

7. On the other hand, Ld. DR for the revenue heavily, relied on the findings of the assessing officer, and stated that assessee has failed to prove the sources of cash deposits of Rs.33,22,000/-. The submission of the documents and evidences



by the assessee, like, Income Tax Return-V and computation of income, Form No.7/12 and 8A, and the proof for agricultural land holding, and evidences along with Affidavits by purchaser party of cows/buffaloes, as an evidence of sale of cattle and bullock cart are not sufficient. The assessee has to furnish more documents and evidences to substantiate its case. This way, the Id. DR for the Revenue, reiterated the stand taken by the assessing officer, and stated that addition made by the assessing officer may be sustained.

8. 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 during the remand proceedings, the assessee has submitted following documents and evidences, before the assessing officer, to explain the source of the cash deposit, and a brief chart, showing the explanations, which are reproduced below:



Annexure-A

Source of cash amounting to Rs. 37,00,000/-

| Particular | Amount in Rs. | Activity of Purchaser /Source of Purchase | Documentary evidence |
|---|---------------------------|---|--|
| Cash available out of earlier Savings of Agriculture Activity | 2,00,000/- | Land Records are submitted during Assessment proceedings | Please find form 7 /8A from page <u>04</u> to <u>07</u> |
| Cash received from hardasbhai Chudasama and Sumatbhai ambaliya on sale of Agricultural land | 3,78,000/- | N/A | Sales Deed attached vide page <u>08</u> to <u>16</u> . |
| <u>Sale of Livestock</u> | <u>31,50,000/-</u> | <u>Break up is provided below</u> | |
| a) Cash received from Modhvadiya Rajabhai on sale of 3 cows and 2 buffaloes | 6,20,000/- | Working as Agriculturist /Selling of Milk and milk products from harvested from domestic cattle | In support of identity, creditworthiness and genuineness of the transaction of sale carried out with Purchaser following documents are attached 1. For identity, PAN & Aadhar card is attached at page <u>17</u> to <u>19</u> |



| KARSHANBHAI RANABHAI GORANIYA | | | |
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| | | | <p>2. For genuineness of transaction carried out, affidavit acknowledging the transaction is mentioned is attached at page <u>20</u> to <u>21</u></p> <p>3. For credit worthiness, land record in justification that the purchaser is Agriculturist and having sufficient land record of approx. 22 bhiga is attached at page <u>22</u> to <u>24</u></p> |
| b) Cash received from Modhvadiya Nagabhai on sale of 1 cow, 3 buffaloes, a bullock cart and 2 bullocks | 7,80,000/- | Working as an Agriculturist /Selling of Agriculture produce and milk products from harvested from domestic cattle. | <p>In support of identity, creditworthiness and genuineness of the transaction following documents are attached</p> <p>1. For identity, PAN & Aadhar card is attached at page <u>25</u> to <u>27</u></p> <p>2. For genuineness of transaction carried out, affidavit acknowledging the transaction is mentioned is attached at page <u>28</u> to <u>29</u></p> <p>3. For credit worthiness, land record in justification that</p> |



| KARSHANBHAI RANABHAI GORANIYA | | | |
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| | | | the purchaser is Agriculturist and having sufficient land record approx. of 8 bhiga is attached at page <u>30</u> to <u>33</u> |
| c) Cash received from Khunti Rambhai on sale of 2 cows and 2 buffaloes | 4,70,000/- | Working as Agriculturist /earnings are from sale of milk and milk related products | In support of identity, creditworthiness and genuineness of the transaction following documents are attached 1. For identity, PAN & Aadhar card is attached at page <u>34</u> to <u>36</u> 2. For genuineness of transaction carried out, affidavit acknowledging the transaction is mentioned is attached at page <u>37</u> to <u>38</u> 3. For credit worthiness, land record in justification that the purchaser is Agriculturist and having sufficient land record of approx. 9 bhiga is attached at page <u>39</u> to <u>41</u> |
| d) Cash received from Khunti Murubhai on | 4,90,000/- | Working as an Agriculturist /earnings are | In support of identity, creditworthiness and genuineness of the transaction |



| KARSHANBHAI RANABHAI GORANIYA | | | |
|--|------------|--|---|
| sale of 1 cows and 4 buffaloes | | from sale of milk and milk related products | following documents are attached 1. For identity Aadhar card is attached at page <u>42</u> to <u>43</u> 2. For genuineness of transaction carried out, affidavit acknowledging the transaction is mentioned is attached at page <u>44</u> to <u>45</u> 3. For credit worthiness, land record in justification that the purchaser is Agriculturist and having sufficient land record of approx. 11 bhiga is attached at page <u>46</u> to <u>48</u> |
| e) Cash received from Modhvadiya Bachubhai on sale of 3 cows and 4 buffaloes | 7,90,000/- | Working as Agriculturist /earnings are from sale of milk and milk related products | In support of identity, creditworthiness and genuineness of the transaction following documents are attached 1. For identity, PAN Card and Aadhar card is attached at page <u>49</u> to <u>51</u> 2. For genuineness of transaction carried out, affidavit acknowledging the transaction is mentioned is attached at page <u>52</u> to <u>53</u> |



| KARSHANBHAI RANABHAI GORANIYA | | |
|-------------------------------|-------------|---|
| | | 3. For credit worthiness, land record in justification that the purchaser is Agriculturist and having sufficient land record during the year transaction is undertaken is attached at page 54 to 62 (Sale deed of Agriculture Land in 2020) |
| Total | 37,28,000/- | |

9. We note that assessee had provided all the information asked by the Assessing Officer during the remand proceedings, and submitted all possible documents and evidences. We find that assessee is engaged in business of selling of milk and net income is earned by him by selling the milk and by selling the livestock, belonged to him. The assessee had also sold the cattle- cart and land in the beginning of the financial year. The source of cash deposit has been duly explained and all the documents were duly submitted, before the assessing officer. The assessing officer did not find any fault in these documents and evidences submitted by the assessee, except to say that explanations of the assessee are not acceptable. We find that source of the cash deposited, which is out of cash available, out of earlier savings and cash received from sale of Bullocks, Cows, Buffaloes and Agricultural land, which were duly supported with the documentary evidences. The assessee also submitted the Affidavit stating all the facts and for that Id. Counsel for the assessee, relied on the judgement of Hon`ble Supreme Court, in case of Mehta Parikh 7 Co. V. CIT [1956] 30 ITR 181(SC), wherein it was held that "when there is no material on record to disprove the veracity of a statement made in affidavit, a finding arrived at ignoring the statement in the affidavit would be finding based on no evidence and a finding which no person acting judicially



could have arrived at. "In holding so, we draw support and guidance from the judgement in case of Hanutram Ramprasad V. CIT [1978] 114 ITR 19 (Gauhati), wherein, the Gauhati High Court observed that *"an affidavit is a valid piece of evidence which can be acted upon in course of assessment or the appellate proceedings. When the AAC accepted the contents of the affidavit considered filed by the creditor and deleted the addition on account of cash credit, the Tribunal ought not to have ignored the contents of the affidavit filed before AAC on the basis of which relief was given. In such a situation the assessee could assume that the contents of the affidavit had been accepted by the authorities."*

10. We also find that assessee under consideration, is a senior citizen, therefore, as per circular of the CBDT, amount of Rs.5,00,000/- would be treated as explained, as it falls within the limit of maximum amount, which is not chargeable to Tax. The relevant excerpts of Instruction No. 3/2017[F.NO. 225/100/2017/ITA-II] dated 21.02.2017, in Annexure-“Source Specific General Verification Guidelines ” states as follows:

“1 Cash out of earlier income or savings: In case of an individual (other than minors) not having any business income, no further verification is required to be made if total cash deposit is up to Rs.2.5 lakh. In case of taxpayers above 70 years of age, the limit is Rs.5.0 lakh per person. The source of such amount can be either household savings/savings from past income or amounts claimed to have been received from any of the sources mentioned in paras 2 to 6 below. Amounts above this cut-off may require verification to ascertain whether the same is explained or not. The basis for verification can be income earned during past years and its source, filing of ROI and income shown therein, cash withdrawals made from accounts etc.”

11. It can be seen from the above that the cash deposits are out of the available cash with the assessee at the relevant point of time. The assessee has amply demonstrated with evidences that the cash sales of cattle and cart and the cash deposits during assessment year, under consideration, are getting tallied with the



relevant documents. We also find that some of the documents and evidences filed by the assessee before the assessing officer, were self -servicing documents, therefore entire addition made by the assessing officer cannot be deleted. We therefore, take into account all these facts and circumstances and hence in our opinion, the ends of justice would be met, if the impugned disallowance to the extent Rs.2,00,000/- , in lump sum only should be sustained in the hands of the assessee, with a rider that same shall not be treated as a precedent.

12. Before parting, we would like to make it clear that since the assessee has disclosed the total income of Rs.1,14,848/-, in the return of income, on account of cash deposited, in the bank account, therefore, the assessing officer should make the net disallowance to the extent of Rs. 85,152/- (Rs.2,00,000-Rs.1,14,848) in the hands of the assessee, and compute the tax, by following the normal rate of tax.

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

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

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

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

Rajkot

दिनांक/ Date: 11 / 02 /2025

Copy of the Order forwarded to:

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot