



आयकर अपीलिय अधिकरण, राजकोट न्यायपीठ, राजकोट।  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER AND  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.135/RJT/2024**

**निर्धारणवर्ष /Assessment Year: (2017-18)**

Ajay Lalchand Bhansali. Swastik Traders, OPP. PGVCL Office, Dhebar Road, Rajkot.	बनाम Vs.	ITO Ward-1(2)(5), Rajkot.
स्थायीलेखासं/.जीआइआरसं/.PAN/GIR No. <b>ACYPB6253E</b>		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Sunny Mehta, AR

राजस्व की ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Sr-DR

सुनवाई की तारीख/Date of Hearing : 16/01/2025

घोषणा की तारीख/Date of Pronouncement : 23/01/2025

**आदेश/Order**

**Per Dr. Arjun Lal Saini, A.M**

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax (Appeal) [in short 'Ld. CIT(A)'], vide order dated 05/01/2024, which in turn arises out of an assessment order passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") vide order dated 16/12/2019

2. The grounds of appeal raised by the assessee are as follows:

(1). *The Ld. CIT(A) erred on facts as also in law by confirming the order issued by Ld. AO, Rajkot is bad in law and contrary to the facts of the case.*



*(2). The Ld. CIT(A) erred in law and on facts by rejecting only opening cash balance without rejecting complete set of books of accounts prepared by the appellant.*

*(3). The Ld. CIT(A) erred in law and on facts by not considering the fact that appellant's only source of income is from partnership firm and additional withdrawals made in previous years lead to subsequent accumulation of cash in hand.*

*(4). The Ld. CIT(A) erred on fact by passing the order without considering the merits or verifying records and without giving sufficient opportunity of being heard against the show cause notice neither in person nor in writing.*

*(5). The Ld. CIT(A) erred in law by not considering the audit trail of sequential books of accounts produced and also by not considering the fact that schedule AL is required to be prepared only by Individuals and HUF having annual income exceeding Rs. 50 Lakhs.*

*(6). The Ld. CIT(A) erred in law by adding Rs. 2,50,000/-, as unexplained money where in fact the same has been clearly explained with supporting evidences.*

*(7). The Ld. CIT(A) erred in law by adding Rs. 2,50,000/- as unexplained money without bringing any additional evidence or information on record in support of rejecting only the opening cash balance.*

*(8). The Ld. CIT(A) has erred in issuing notice under section 271A(1)(d) of the IT Act.*

*(9). The Ld. CIT(A) has erred in law by not issuing a speaking order and also by issuing order in just one line without actually verifying the submission made and evidences produced.*

*(10). Without prejudice to the above your appellant craves leave to add, alter, vary, or withdraw all or any of the grounds on or before the hearing of the appeal.*

3. Although, this appeal filed by the assessee, for Assessment Year 2017-18, contains multiple ground of appeals, as noted above. We find that most of the grounds raised by the Assessee, are either academic in nature or contentious in nature. However, to meet the end of justice, we confine ourselves to the core of the controversy and main grievances of the assessee. The solitary grievance of the assessee, in this appeal is that Ld. CIT(A) erred in confirming the addition of Rs. 2,50,000/-, made by the assessing officer.

4. Succinctly, the factual panorama of the case is that assessee before us is an Individual and had e-filed his return of income on 09-02-2018, declaring total



income at Rs.8,88,180/-. The return of income was processed by the Department u/s 143(1) of the Act. Later on, the assessee's case was selected for limited Scrutiny through CASS to verify the cash deposited during demonetization period. The assessee is engaged in Trading of tools and hardware under the business name of Swastick Traders. During the assessment proceedings, the assessing officer issued notice u/s 143(2) of the Act, on 21.09.2018 and duly served upon the assessee through email. Thereafter, a notice u/s 142(1) of the Act, along with questionnaire was issue through ITBA on 06.08 .2019 and served on the assessee.

5. In response to the notices u/s 143(2) and 142(1) of the Act, the assessee filed details called for online electronically in 'E-Proceedings' facility provided on e-Filing website of the Department. During the assessment proceedings, the assessee submitted, cash book, brief note on business activities, return of income, computation of total income, and bank details sale register etc. On-going through the details it was observed by the assessing officer that opening cash balance has not been maintained properly and in the return of income, the assessee has also not filed details of cash deposit, therefore covering this issue a notice u/s. 142(1) of the Act, was again issued to the assessee on 28.11.2019 and requested to submit reply. The Assessee in this regard submitted that he is having opening balance of Rs. 1,75,305/- for the year under consideration and earning personal withdrawal of Rs. 6000/- cash every month from swastika traders. As per information of the department assessee had deposited cash of Rs. 16,50,000/- as per details given below:

Sr. No.	Name of the Bank	Account No.	Cash deposit during the demonetization period (Amount in Rs.)
1	KarurVysya Bank	22031550000018333	Rs.2,50,000/-



2	KarurVysya Bank	2203155000017880	Rs.14,00,000/-
		Total	Rs.16,50,000/-

6. On going through the return of income it was found that the assessee is owing only one bank account in the return of income and information of Rs.2,50,000/- has been given for cash deposit, other cash deposit is of his family member in the name of Hema Ajay Bhansali with cash deposit of Rs.14,00,000/-, however PAN of the assessee only has been updated in the bank account. Notice for detailed information was issued by the assessing officer to the Karur Vaisya Bank where reply was received that the assessee is having only one account. Further it was observed that the assessee has not liable for audit. Return of the assessee was verified for earlier year also where business of the assessee was not liable for audit. No information for cash opening/closing balance was found to be mentioned in return of income in earlier year. The assessing officer also observed that assessee has prepared cash book without any supporting evidences of ITR or audit. As the assessee has shown closing balance in the return as NIL and assessee is not auditable no benefit of opening cash balance could be given and following the same it is very clear that all the opening cash balance of the assessee is after thought of the assessee which has been mitigated by preparing cash book after demonetization of the year and accordingly the same has been deposited by the assessee during demonetization. Accordingly claim of opening cash balance of Rs. 1,75,305/- was disallowed by the assessing officer. Further is also pertinent to mentioned that when assessee is earning only 6000/- per month there is no scope for saving during the year. Hence, total saving plus opening cash accumulated to Rs. 2,50,000/- deposited during demonetization was not accepted by the



assessing officer. Therefore, assessing officer made addition to the tune of Rs. Rs. 250,000/-, under section 69A of Act.

7. Aggrieved by the addition of Rs. 2,50,000/- made by the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has just reiterated the findings of the assessing officer and has confirmed the action of the assessing officer, therefore the assessee is in further appeal before us.

8. Learned Counsel for the assessee, submitted that Ld. AO made addition of Rs. 250,000/- on account of cash deposit during the demonetization period, despite of the fact that assessee had explained the source of the cash so deposited, stating that assessee withdraws Rs. 6,000/- from partnership firm and such amount was accumulated by the assessee in cash, and when the demonetization scheme has been announced, the assessee deposited the said amount in the bank account. The Ld. Counsel also submitted that part amount was deposited out of opening cash balance of the assessee, therefore, addition made by the assessing officer may be deleted.

9. On the other hand, Ld. Sr. DR, on behalf of the Revenue, argued that assessee has submitted self-serving documents, such as, cash book and balance sheet and such cash book and balance sheet should not be relied, as these are not subject to audit. Therefore, these self-serving documents should not be relied upon. Moreover, opening cash balance was not disclosed by the assessee in the income tax return filed by the assessee. Therefore, cash book and balance sheet are merely fabricated documents. The ld. DR thus pointed out that assessee failed to prove the source of the cash deposit during the demonetisation period, therefore the addition made by the Ld. AO should be sustained.



10. 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 note that the addition made by the Ld. AO falls within the domain of maximum amount, which is not chargeable to tax, that is, below of Rs. 2,50,000/-. The amount of Rs.2,50,000/- falls in the exempted slab, where the assessee need not to pay income tax. However, if the assessee has other income, which is chargeable to tax, and which is exceeding the amount of exemption limit of Rs. 2,50,000/-, then certainly amount will be chargeable to income tax.

11. However, we find that CBDT has issued instruction, to the assessing officers as to how to examine of the case of cash deposit during the demonetization period and in said circular the CBDT has explained and narrated facts that there should be blanked exemption of Rs. 2,50,000/- per person, vide instruction No. 03/2017, dated 21/02/2017, wherein CBDT has explained that in case of small assesseees, like artisans, daily workers, housewives, and small assesseees etc, then such small amount would not be questioned by the Ld. AO up to Rs. 2,50,000/- per person. Taking into account, the facts narrated above, we note that Instruction issued by the CBDT should be considered, vide Press Release dated 18.11.2016 and Guidelines for Verification of Cash deposit during demonetization to the AO vide Instruction No. 3/2017[ F.NO. 225/100/2017/ITA-II] dated 21.2.2017 and annexure thereof issued under section 119 of Income Tax Act, which are discussing and providing a blanket exemption of Rs. 2,50,000/- per person. In the Press release dated 18.11.2016 also, it was stated that:

*“It was announced by the Government earlier that small deposits made in the banks by artisans, workers, housewives, etc. would not be questioned by the Income Tax Department in view of the fact that present exemption limit for Income Tax is Rs.2.5 lakh”.*



12. 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.”*

13. Therefore, we find that assessee, under consideration, falls under this exemption class, noted above, therefore, we delete the addition of Rs.2,50,000/-, and allow the appeal of the assessee.

14. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 23/01/2025

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

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

Rajkot

दिनांक/ Date: 23/01/2025

**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