

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“DB” BENCH, AGRA**

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकरअपील सं./ ITA No.191/Agr/2022**  
**(निर्धारणवर्ष / Assessment Year: 2017-18)**

<b>Shri Kanhaiya Lal Bansal</b> 3/28A, Khandari, Agra – 282002	<b>बनाम/ Vs.</b>	<b>ACIT Circle 1(1)(1)</b> Agra
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ACRPB-3050-G</b>		
<b>(अपीलार्थी/Appellant)</b>	<b>:</b>	<b>(प्रत्यर्थी / Respondent)</b>

<b>अपीलार्थीकीओरसे/ Appellant by</b>	<b>:</b>	<b>Shri Sushil Maheshwari (CA)- Ld.AR</b>
<b>प्रत्यर्थीकीओरसे/Respondent by</b>	<b>:</b>	<b>Shri Shailendra Shrivastava – Ld. Sr. DR</b>

<b>सुनवाईकीतारीख/Date of Hearing</b>	<b>:</b>	<b>12-02-2025</b>
<b>घोषणाकीतारीख /Date of Pronouncement</b>	<b>:</b>	<b>12-02-2025</b>

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 18-10-2022 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 04-12-2019. In the assessment order, Ld. AO made addition of Rs.35.50 Lacs u/s 68 r.w.s. 115BBE on account of advance Income Tax Payment by the assessee.
2. From the case records, it emerges that the assessee earned income from salary, income from business and ‘income from other sources’. It transpired that the assessee deposited advance income tax

of Rs.10 Lacs and Rs.17 Lacs on 18-11-2016 & 22-11-2016 respectively. Similar advance tax of Rs.8.50 Lacs was deposited for his partnership firm M/s Sathiya Bhawan Publications. The aggregate payment of Rs.35.50 Lacs so deposited in cash was stated to be withdrawn out of the partnership firm in which the assessee acted as one of the partners. In support of sources of funds, the assessee furnished confirmed copy of his capital account for the year as appearing in the books of the partnership firm which has also been extracted on Page-4 of the assessment order. The withdrawals of Rs.35.50 Lacs was found debited to the capital account on 03-10-2016. As required by Ld. AO, the assessee also furnished month-wise details of cash withdrawals. However, Ld. AO simply rejected the same, inter-alia, on the ground that there was abnormal spike in cash-in-hand and no emergency situation was shown for early withdrawal of the cash from the firm. Further, the assessee did not furnish entire cash book of M/s Sahitya Bhawan Publications but he only provided relevant pages of the cash book. Finally, the aforesaid amount was treated as unexplained cash credit u/s 68 and added to the income of the assessee. The Ld. CIT(A) confirmed the impugned addition which is in further appeal before us.

3. From the facts, it clearly emerges that the source of advances taxes so paid by the assessee was duly explained by the assessee before lower authorities. The assessee has withdrawn the impugned sums from his partnership firm which is quite evident from the confirmed copy of capital account as furnished by the assessee before lower authorities. Not only this, the assessee furnished relevant pages of cash book of the partnership firm supporting the withdrawal of cash from the partnership firm. By doing so, the assessee had duly discharged the burden of

establishing the source of cash payments. It is trite law that no addition could be made on the basis of mere suspicion, conjectures or surmises. We find that there is no material before lower authorities to disbelieve the claim of the assessee and the impugned addition has been made without there being any concrete evidence on record which rebut the claim of the assessee. Secondly, the cash has been paid towards payment of advance income tax and it is highly unlikely that the same was sourced from undisclosed sources. Another point to be noted that the provisions of Sec. 68 could not be invoked by Ld. AO on the facts of the case since there is no unexplained cash credit in the books of the assessee rather the assessee has deposited advance income tax and it successfully discharged the primary onus of establishing the source thereof. Considering all these facts, the impugned addition is not sustainable in law. We order so. The Ld. AO is directed to re-compute the income of the assessee.

4. The appeal stand allowed in terms of our above order.

*Order pronounced on 12<sup>th</sup> February, 2025.*

*Sd/-*

*Sd/-*

**(SATBEER SINGH GODARA)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

Dated: 12-02-2025

*Mks*