

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER**

**आयकरअपील सं./ ITA No.1464/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)**

Senniappan Karuppana
Gounder,
No.22, Pallipalayam Village,
Kandipudur,
Thiruchengodu Taluk,
Namakkal Dist 638 006.

Vs. The Income Tax Officer,
Ward 2,
Tiruchengode.

[PAN: AMYPK 7871R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. Raghav Rejeev Menon, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. R. Bhoopathi, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 03.02.2025

घोषणा की तारीख /Date of Pronouncement

: 24.02.2025

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

The captioned appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals)(NFAC) Delhi [CIT(A)] dated 26.06.2024 for Assessment Year 2012-2013.

2. Brief facts are as under:

The assessee filed return of income for the Assessment Year 2017-18 admitting total income of Rs.4,00,000/-. The case was selected for scrutiny to verify

the abnormal increase in cash deposits during demonetization period. Assessment was completed u/s 143(3) of the Income Tax Act, 1961 ('Act' in short) by making addition of Rs.56,49,500/- u/s 69A on account of cash deposits in bank account and Rs.54,774/- as interest income. The Id. CIT(A) partly allowed the appeal of the assessee. The relevant portion of the order of Id. CIT(A) are as under:

“3. Ground Nos. 1 to 3 are raised against the addition of Rs.56,49,500 as unexplained cash under section 69A of the Act. The assessee had made cash deposits of Rs. 11,49,500/- and Rs.45,50,000/- into his SB accounts in State Bank of India and Lakshmi Vilas Bank respectively. The assessee stated that during the year he sold his agricultural property. The sale proceeds and the cash in hand brought from earlier years which are withdrawn from his sons NRE account were also shown as sources for cash deposits. As per the explanation, appellant's son working abroad transferred his savings to his NRE account with HDFC bank, Erode. The appellant had withdrawn cash on various dates from bank and kept the same on hand for giving advance for land purchase. Since it could not be deposited into NRE account the appellant deposited into his LVB SB account Rs.45,00,000 at the time of demonetisation period. Balance cash deposit of Rs.11,99,500 was shown from sale of agricultural land. The appellant has submitted bank statements of his son's NRE account and sale deeds. The assessee was also engaged in money lending business and his opening cash in hand for the year under consideration was Rs. 10,225 only. Out of Rs. 18,00,000 with sundry debtors, he has not shown anyone returning cash during the year.

3.1 The assessing officer held that, the sources for cash deposits which the assessee claims to be from the sale of agricultural land and withdrawn from son's NRE account from earlier years is not acceptable. The assessee has not given documentary proof for getting the entire amount of Rs. 11,49,500/- from the purchaser of agricultural land as old notes. Further the date of deposit made in bank and the sale of Agricultural land forms a huge gape of time and the explanation given by the assessee he was holding cash all through the time is not acceptable. Further, the assessee has not established the genuineness of holding such huge cash balance in hand with satisfactory explanation. The copy of his son Shri. Dhanasekarn's HDFC bank account bearing No NRE-NR02321060001913 was verified. Cash was withdrawn from his son's bank account from 23.10.2008 to 06.01.2016. The date of deposit made in bank and the NRE drawings forms a huge gape of time and the explanation given by the assessee he was holding cash all through the time is not acceptable. Hence, the period of holding this huge amount and the same denomination withdrawn from the bank is not reasonable and acceptable. Further, the assessee has not established the genuineness of holding such huge cash balance in hand with satisfactory explanation. During the year under consideration, no cash was withdrawn from his son's bank account.

4. Adjudication of grounds 1, 2 and 3; During appeal proceedings, the appellant submitted the sources of cash deposits as follows;

Sl.No	Name, PAN and Address	Date of deposit	Amount deposited	Nature/Reasons of deposit
SBI 1	My self	20.04.2016	10,000	Out of my Savings
2	do	18.05.2016	15,000	do
3	do	19.12.2016	11,49,500	Out of agricultural land sale proceeds on 18.08.2016.
		<i>Total</i>	<i>11,74,500</i>	

Sl.No	Name, PAN and Address	Date of deposit	Amount deposited	Nature/Reasons of deposit
LVB 1	My self	20.04.2016	20,000	Out of my Savings
2	do	18.05.2016	15,000	do
3	do	12.08.2016	5,000	do
4	do	19.11.2016	10,000	Out of agricultural land sale proceeds on 18.08.2016.
5	do	29.11.2016	40,000	Out of agricultural land sale proceeds on 18.08.2016.
6	do	17.12.2016	45,00,000	Son's NRE amount
		<i>Total</i>	<i>45,90,000</i>	

The appellant also uploaded sale deeds of following agriculture lands:-

Sl.No	Nature	Doc. No and date of sale	Value
1	Agricultural land at Kangayam	3601/2016, dt 18.08.2016	Rs.9,48,000
2	Agricultural land at Kangayam	3602/2016, dt 18.08.2016	Rs.4,09,000
		<i>Total</i>	<i>Rs.13,57,000</i>

It is clear that the assessee had sold the above agricultural lands for a total consideration of Rs. 13,57,000 and out of which, the appellant has deposited Rs.11,49,500 in SBI and Rs.50,000 in LVB account. Above land sales occurred only two months prior to demonetization and there is no reason to doubt that the sale proceeds were deposited in bank account. So the explanation regarding land sales is acceptable. The appellant also claimed that out of total cash deposits Rs.65,000 is from his savings or cash in hand. Considering the facts and circumstances of the assessee it is reasonable to assume that the appellant had Rs.65,000 cash savings at the time of demonetization.

4.1 Regarding cash deposits of Rs.45,00,000 the appellant submitted that the source for the same is withdrawal from his son's NRE account. Since his son insisted for purchase of property at Erode and since suitable properties could not be located, the said amount withdrawn has been kept as cash on hand. The assessing officer verified the cash withdrawals which are given below;

<i>Date</i>	<i>Amount</i>
<i>23.10.2008</i>	<i>70,000</i>
<i>08.11.2008</i>	<i>96,200</i>
<i>10.12.2008</i>	<i>2,00,000</i>
<i>12.12.2008</i>	<i>2,70,000</i>
<i>06.03.2009</i>	<i>1,00,000</i>
<i>07.07.2009</i>	<i>1,00,000</i>
<i>22.09.2009</i>	<i>2,00,000</i>
<i>23.09.2009</i>	<i>2,03,000</i>
<i>25.09.2009</i>	<i>15,000</i>
<i>26.09.2009</i>	<i>1,00,000</i>
<i>01.10.2009</i>	<i>1,10,000</i>
<i>07.10.2009</i>	<i>1.85.000</i>
<i>20.10.2009</i>	<i>1,35,000</i>
<i>11.11.2009</i>	<i>1,00,000</i>
<i>29.01.2010</i>	<i>7,50,000</i>
<i>10.02.2011</i>	<i>6,00,000</i>
<i>08.04.2011</i>	<i>1,00,000</i>
<i>11.04.2011</i>	<i>1,00,000</i>

25.04.2011	1,00,000
07.05.2011	1,00,000
24.08.2011	4,00,000
29.08.2011	2,00,000
12.11.2011	50,000
05.12.2011	85,000
27.12.2011	3,25,000
18.01.2012	50,000
11.02.2012	50,000
28.01.2013	3,00,000
29.01.2013	1,30,000
09.02.2013	5,10,000
14.06.2013	2,00,000
12.04.2014	3,00,000
17.04.2014	4,40,000
05.06.2014	3,00,000
25.07.2014	3,75,000
06.01.2016	30,000
Total	73,79,200

4.2 Appellate authorities have held that the assessee can show earlier cash receipts or withdrawals from own bank account as source of subsequent cash deposits unless the revenue is able to show that the cash so available is used for some other purposes. In this case the appellant has shown cash withdrawals from his son's bank accounts. There should be a reasonable limit for number of years one can hold the earlier withdrawals as cash in hand. From the above chart it is clear that no withdrawals were made during the year under consideration. Most of the withdrawals were made from 2008 to 2014, i.e 2 to 8 years before demonetisation. The explanation given by appellant is illogical. It is strange that his son was trying to purchase a property since 2008 and could not do it till 2016. At the same time the appellant conducted real estate transactions in the form of land sales. Even if he was searching for a property for 8 years, why was the cash withdrawn without locating a property. Even otherwise cash will not be withdrawn in bits and pieces in order to pay for an

immovable property. Many withdrawals were less than Rs.1 lakh giving an impression that it was used for day to day expenses.

4.3 Nobody can prove the appellant's intentions other than himself but this is a clear instance where the decisions in the cases of CIT v. Durga Prasad More (1971) 82 ITR 540 and Sumati Dayal v. CIT (1995) 214 ITR 801 can be applied where the Supreme Court has laid down Human Probability test as one of the important test in order to check genuineness of the transactions entered into the books of account of the assesses. The Apex court stated that, taxing authorities are not required to put on blinkers while looking at the documents produced before them. Assessing Officer is entitled to look into the surrounding circumstances to find out the reality of the recitals made in those documents. In Jiyajirao Cotton Mills Ltd Vs. CIT & EPT (1958) 34 ITR 888 the Supreme Court has observed that the arrangement of transaction must be real and genuine and not a sham or make-believe. The explanation that numerous cash withdrawals from earlier 8 years were accumulated and kept in hand was clearly an afterthought. Hence this explanation is not acceptable and addition of Rs.45,00,000 is hereby confirmed. As a result grounds 1, 2 and 3 are partly allowed.

5. Ground no 4 is against the addition of Rs.54,774/- as SB account interest. The assessing officer held that on going through the bank statements (LVB & SBI) it was ascertained that the assessee had received SB interest of Rs.78608/- during the FY-2016-17 and on going through the income computation statement filed by the assessee, it was noticed that the assessee had offered SB interest of Rs.23834/-only. Hence the balance amount of Rs. 54774/- was added to the returned income of the assessee and brought into tax in the hands of the assessee for the assessment year 2017-18 under the head "Income from Other Sources". The Appellant submitted that the interest amount of Rs.54,774/- is credited by the bank in the savings bank account after 31.03.2017. Hence, the appellant has considered the interest credited to the SBI and LVB account for the period 01.04.2016 to 31.03.2017. However he could not prove these claims by identifying the interest credits bank statements of current year and subsequent year. The appellant also did not submit 26AS statement to show TDS deduction from interest credits for corresponding years. Hence ground no 4 is dismissed.

6. In result, the appeal is partly allowed'.

Now, assessee is in further appeal before us.

3. Before us, the Id. counsel for the assessee filed Bank Statement of the appellant and HDFC NRE Bank Statement and contended that the Id. CIT(A) ought to have appreciated the fact that the cash withdrawals Rs.45,50,000/- were made from the bank account of his son's NRE Account and the same has been deposited in his SB Account in State Bank Of India and Lakshmi Vilas Bank account.

4. Per contra, the Id.DR Mr. Bhoopathi, Addl. CIT vehemently supported the order of the Id.CIT(A) and pleaded for the dismissal of the appeal. He also submitted that no confirmation/explanation placed on record from his son regarding withdrawal by the assessee from his NRE Account with HDFC.

5. We have gone through the orders of lower authorities and submissions addressed by the parties before us. We observe that the withdrawals from the NRE Account are genuine and not sham. We also note that assessee also sold agricultural land for a total consideration of Rs.13,57,000/- which has been accepted by the Id.CIT(A) as genuine. We find that there are withdrawals of Rs.73,79,200/- from 23.10.2008 to 06.01.2016 which are not disputed by the revenue. We also note that cash withdrawn by the assessee from his son's account from 23.10.2008 to 06.01.2016 is on continuous intervals although there is gap of 8 years. However, so long the withdrawals are genuine, the gap is immaterial in the light of the case law citation referred [2018] 92 taxmann.com 108 (Delhi) titled Jaya Aggarwal Vs ITO by the assessee counsel. However, we observe that there is no affidavit or confirmation or explanation placed on record from his son regarding withdrawal by the assessee from his NRE Account with HDFC. The Id. AO has power to seek information from the assessee's son regarding withdrawals from his NRE Account. Therefore, in totality of circumstances, we set aside this issue for limited purpose to get the confirmation from the assessee's son by way of affidavit regarding aforesaid withdrawals. Further, AO is entitled to call for

documents/evidence, if any required by him. Thereafter, AO will proceed according to law.

6. As far as addition of Rs.54,774/- towards the interest income, the assessee submitted that the interest amount of Rs.54,774/- is credited by the bank in the savings bank account after 31.03.2017. Hence, the appellant has considered the interest credited to the SBI and LVB account for the period 01.04.2016 to 31.03.2017. Hence, in the light of the above submissions of the appellant we direct the AO to verify the averments of the assessee with respect to the interest income of Rs.54,774/- and if found true then delete this addition in this year. Therefore, the impugned order of the Id.CIT(A) requires interference by us with respect to the interest income of Rs.54,774/- only.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 24th day of February, 2025 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai:

दिनांक Dated : 24-02-2025

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आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)

(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**