

**THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
(Through Video Conferencing)**

ITA No. 77/DDN/2024
(Assessment Year: 2019-20)

Kamal Kishor, H. NO. 13, Regri, Tapovan, Chamoli, Uttarakhand, India-246 483	Vs.	ACIT, Central Circle, Dehradun
(Appellant)		(Respondent)
PAN: ENSPK0536E		

Assessee by :	Shri Himanshu Sharma, CA
Revenue by:	Shri S. K. Chaterjee, CIT DR
Date of Hearing	18/03/2025
Date of pronouncement	02/04/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.77/DDN /2024 for AY 2019-20, arises out of the order of the Commissioner of Income Tax (Appeals)-3, Noida [hereinafter referred to as 'Id. CIT(A)', in short] in CIT (A), Kanpur- 4/11168/2018-19 dated 07.05.2024 against the order of assessment passed u/s 153A/ 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 22.05.2021 by the Assessing Officer, DCIT, Central Circle, Dehradun (hereinafter referred to as 'Id. AO').

2. The only effective issue to be decided in this appeal is as to whether the cash that was seized by the police on 19-07-2017 and the requisition under section 132A of the Act was made by the Income Tax Department from the police authorities on 5.12.2018 (falling in assessment year 2019-20

and accordingly whether the said cash seized could be subject matter of addition in assessment year 2019-20 in the facts and circumstances of the instant case. Apart from this, whether at all any addition in the sum of Rs 4,00,000/- being the cash seized could be added in the hands of the assessee herein.

3. We have heard the rival submissions and perused the materials available on record. The assessee resides in the very remote area of Joshimath and engaged in the business of cattle farming and some petty business. Information was received by the Assessing Officer on 08-08-2017 from SSP, Chamoli that on 19-07-2017 during checking of vehicles, cash amounting to Rs 4 lakhs was recovered from vehicle number UK-07 TC 2593, a Tata Sumo vehicle. This cash was seized by Sub-Inspector of Police, Mr. Ashish Kumar and submitted in Mal garh of Thana Haza. Statement was recorded under section 131(1A) of the Act from the assessee who accepted that the cash recovered of Rs 4 lakhs belongs to him. The aforesaid cash was requisitioned from SHO, Thana Kotwali, Joshimath on 05-12-2018 by the Income Tax Department under an authorization of warrant issued under section 132A of the Act dated 05-12-2018 by the Principal Director of Income Tax (Investigation), Kanpur. Accordingly, the case of the assessee was centralized to Dehradun office, vide order passed by the Id PCIT under section 127(2) of the Act dated 1-3-21. Notice under section 153A of the Act stood issued to the assessee on 14-10-2020. No return was filed in response to the said notice by the assessee. Since the cash seized by the police and which was later requisitioned by the Income Tax Department under section 132A of the Act from the Police Department was stated by the assessee himself to be belonging to him, the cash seized of Rs 4 lakhs was treated as unexplained money in the hands of the assessee under section 69A read with section 115BBE of the Act and

search assessment was completed under section 153A read with section 144 of the Act on 22-05-2021 for the assessment year 2019-20.

4. The assessee preferred an appeal before the learned CITA. Before the learned CITA, the assessee filed submissions to explain the availability of cash by stating that out of Rs 4 lakhs that was seized, Rs 1.50 lakhs was given to him by one Shri Pushkar Singh on loan basis via cheque ; Rs 1.50 lakhs was received by him from Gram Panchayat Raigarhi ; Rs. 50,000 was obtained from his wife out of her personal savings; Rs. 25,000 was withdrawn from the bank and Rs. 25,000 was out of the past savings of the assessee. This explanation together with the supporting confirmation evidences were considered by the learned CIT(A) to be additional evidences and since no Rule 46A petition was filed by the assessee for admission of additional evidence, the learned CIT(A) simply rejected the said explanation and the supporting documents given by the assessee. Consequentially, the learned CIT(A) upheld the action of the learned AO. Aggrieved, the assessee is in appeal before us.

5. Before us, the learned AR pleaded that the evidences submitted by the assessee in the form of additional evidences may kindly be admitted as assessee is a small time farmer and had genuinely received sums from those parties and those parties have also duly confirmed the fact of advancing monies to the assessee. Hence, these evidences may be directed to be considered by the learned AO and the learned AR prayed for restoration of this appeal to the file of learned AO for denovo adjudication. Per contra, the learned DR vehemently relied on the orders of the lower authorities by stating that sufficient opportunities were given to the assessee and these additional evidences should not be admitted.

6. We find that assessee is an illiterate and is only engaged in the business of cattle farming. It is a fact that a sum of Rs 4 lakhs was seized by the police authorities on 19-07-2017. The information regarding the said seizure was duly sent to the income tax department on 8.8.2017 itself which fact is duly mentioned in the first para of the assessment order itself. Accordingly, the Learned AR argued that even if the cash is treated as unexplained in the hands of the assessee, it could be taxed only in the Assessment Year 2018-19 and not in the year under consideration. We are unable to comprehend to accept this line of argument of the Learned AR in view of the fact that the assessment in the instant case has been framed under section 153A of the Act, for which either the initiation of search under section 132 of the Act or requisition under section 132A of the Act is mandatory. Admittedly, the requisition under section 132A of the Act had happened in the instant case only on 5.12.2018 which falls in Assessment Year 2019-20. Hence the consideration of cash seized of Rs 4 lakhs in the Assessment Year 2019-20 is in order. Accordingly, this argument of the Learned AR is hereby dismissed. But, it is a fact that assessee, having been engaged in the business of cattle farming, had submitted that he was carrying cash to purchase the goat and to mature his business. He had received a sum of Rs. 1,50,000/- from Mr. Pushkar Singh, which also is stated to be reflected in the bank statement of Mr. Pushkar Singh and a sum of Rs. 1,50,000 was received by the assessee from Gram Panchayat, Raigarhi, which fact is also confirmed by way of a certificate from the Gram Panchayat. All these documents are very crucial for adjudication of the issue in dispute. Further, the assessee has also stated that Rs. 50,000 was received by him from his wife and Rs. 25,000 was withdrawn from the bank and Rs. 25,000 was out of his past savings. Hence, as far as the cash withdrawal made in the sum of Rs. 25,000 and Rs. 25,000 out of the past savings of the assessee, we accept the same to be a plausible explanation

given by the assessee and no addition to the extent of Rs. 50,000 could be made in the hands of the assessee. The fact of amount received in the sum of Rs. 50,000 from the wife and Rs. 1,50,000 each received from Mr. Pushkar Singh and from the Gram Panchayat, Raigarhi requires to be examined by the Learned AO in the light of additional evidences submitted by the assessee before the authorities. Hence, we deem it fit and appropriate, in the interest of justice and fair play, to restore this issue to the file of Learned AO for de novo adjudication of the issue only to the extent of Rs. 3,50,000 of cash seized. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is also at liberty to furnish fresh evidences, if any, in support of his contentions. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 02/04/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 02/04/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi