

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 963/SRT/2024
(Assessment Year: 2017-18)

Asifiqbal Ismail Jangda, Jangda Street, At & PO Kharod, Panoli, Panoli S.O., Bhadi, Bharuch-394115	Vs.	Income Tax Officer, Ward-2(4), Bharuch
[PAN No.AFHPJ3722N]		
(Appellant)	..	(Respondent)

Appellant by :	Ms. Dalzin Madan, C.A.
Respondent by:	Shri Mukesh Jain, Sr. DR

Date of Hearing	25.03.2025
Date of Pronouncement	08.04.2025

O R D E R

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeal), (in short "Ld. CIT(A)"), ADDL/JCIT(A)-2, Mumbai vide order dated 23.07.2024 passed for A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal:

"1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in making the addition of Rs. 3,45,000/- on account of unexplained money u/s. 69A.

2. Even otherwise on the facts and circumstances of the case as well as law on the subject, the assessing officer has erred in taxing the income of Rs. 3,45,000/- u/s. 115BBE @ 77.25% in a retroactive manner by applying the duty substituted S. 115BBE inserted retrospectively instead of taxing it at 35.54% as per the old provisions of S. 115BBE.

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3. *It is therefore prayed that the above addition made by the assessing officer and confirmed by Ld.CIT(A) may please be deleted.*

4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”*

3. The brief facts of the case are that the assessee filed a return of income for Assessment Year 2017-18, declaring a total income of Rs. 2,71,610/-. The case was selected for Limited Scrutiny under CASS to examine cash deposits during the demonetization period amounting to ₹3,45,000/-. During the course of assessment proceedings, the assessee submitted these despot were from agriculture income. However, upon examining the return of income filed for AY 2017-18, the Assessing Officer observed that the assessee had not reported any agriculture income. The Assessing Officer noted that a cash deposit of Rs. 1,45,000/- was made in HDFC Bank account and Rs. 2,00,000/- in the Indian Bank account, totaling to ₹3,45,000/-. Since no agriculture income was declared by the assessee in the return for the assessment year, these deposits were treated as unexplained and added to his total income under section 69A of the Act.

4. In appeal, the assessee submitted various documents including corroborative evidences such as Agricultural Income account, Agricultural Expenses account, sales bills of agricultural income, Form 7 and 12 of agricultural land (showing crop details and land area), and day to day Cash Book, to establish the source of cash on hand before its deposit into the bank account. Further, the assessee submitted that a withdrawal of Rs. 1,00,000/- was made from the HDFC Bank account on 04.07.2016 which further contributed to the cash on hand of Rs. 3,45,000/-, along with receipts from agricultural income. Upon reviewing the submissions, the Commissioner

(Appeals) was of the view that the documents provided by the assessee, such as the agricultural income accounts and sales bills, were self-serving documents and lacked third-party confirmation, making them unverifiable. The property details filed by the assessee showed that the land was jointly owned by over nine individuals, with no clarity on the assessee's share or the agricultural income attributable to him. Furthermore, the assessee had not declared any agricultural income in any subsequent years, and no new evidence was presented to challenge the findings of the Assessing Officer. Ld. CIT(Appeals) held that in the case of Roshan Di Hatti Vs CIT (SC) and Kale Khan Mohammad Hanif Vs CIT (SC) it was held that the onus of proving the source of any money found with the assessee rests on the assessee. Since the assessee failed to satisfactorily explain the source of the Rs. 3,45,000/-, the addition made by the AO was upheld, and the appeal of the assessee was dismissed.

5. The assessee is in appeal before us against the order passed by Ld. CIT(Appeals). During the course of hearing before us, the Counsel for the assessee drew our attention to copies of agricultural bills as proof of agricultural income, 7/12 extracts and day to day cash book to demonstrate the source of cash on hand before deposition of the same in the bank account of the assessee. The Counsel for the assessee submitted that none of the documents submitted by the assessee had been disputed by Tax Authorities.

6. In response, the Ld. DR placed reliance on the observed made by Ld. CIT(Appeals) and the Assessing Officer in their respective orders.

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7. We have heard the rival contentions and perused the material on record. On going through the facts of the instant case, we observe that the assessee has furnished various corroborative evidences like Agricultural Income account, Agricultural Expenses account, Sales bills of agricultural produce, Form 7 and 12 of agricultural land (showing crop harvested with details of area of land holding), day to day Cash Book establishing the source of cash on hand as on 10.11.16 before deposit thereof into the bank account. The assessee also submitted that he had withdrawn cash of Rs. 1,00,000/- from HDFC Bank account on 04.07.2016, which is also one of the sources of cash on hand of Rs. 3,45,000/- along with agricultural income receipts. However, Ld. CIT (Appeals) dismissed the evidences furnished by the assessee stating that the evidences produced by the assessee are in the nature of self-serving documents. Ld. CIT(Appeals) did not even grant credit of cash withdrawal of Rs. 1 lakhs from HDFC Bank account on 04.07.2016 held by the assessee, without assigning any specific reason. Accordingly, in our considered view, this is a fit case where the primary onus of proving the source of cash deposit has been established by the assessee and the addition of Rs. 3,45,000/- made by the Assessing Officer is liable to be deleted.

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

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 08/04/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER
Ahmedabad; Dated 08/04/2025
TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat