



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER.**

&

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.725/RJT/2024

निर्धारणवर्ष / Assessment Year: (2017-18)

Shri Haresh Mohanlal Patel Swastik Society, Chudasma Plot, B/h. Race Course, Rajkot-360001	Vs.	Income Tax Officer, Ward-2(1)(4), Rajkot, Aayakar Bhavan, Race Course Ring Road, Rajkot-360 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ACYPP 7378 N		
(Assessee)		(Respondent)

निर्धारित की ओर से/Assessee by : Shri Mehul Ranpura, AR

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

सुनवाई की तारीख/**Date of Hearing** : **13/02/2025**

घोषणा की तारीख/**Date of Pronouncement** : **07/05/2025**

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax, Appeal, Addl/JCIT(A)-4, Bengaluru/Ld.Commissioner of Income-tax(Appeals) [In short "the ld. CIT(A)"], under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), dated 19.07.2024, which in turn arises out of an order passed by the Assessing Officer u/s 143(3) of the Act, dated 28.06.2019.

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

1.The grounds of the appeal mentioned hereunder are without prejudice to one another.



- 2. The Id. Addi/JCIT (A)-4, Pune (hereinafter referred to as the "JCIT(A)") erred in confirming addition of Rs.11,51,000/- made on the alleged ground that the assessee failed to explain sources of cash deposit in the bank accounts held with different banks during demonetization period. The addition confirmed is unjustified and uncalled for, which deserves to be deleted, may kindly be deleted.*
- 3. Your Honour's assessee craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.*
3. The facts necessary for disposal of the appeal are stated in brief. The assessee before us, is an individual and has filed return of income, on 11.12.2017, declaring total income at Rs.2,87,940/-. The assessee's Return of Income was processed u/s 143(1) of the Act. Subsequently, the assessee's case was selected for scrutiny assessment under CASS, therefore, statutory notice u/s. 143(2) of the Act, was issued on 14.02.2018, which was duly served upon the assessee. Later on, notice u/s. 142(1) and detailed questionnaire issued on 18.12.2012 and served upon the assessee. The assessing officer noticed that assessee under consideration, has deposited cash during the demonetization period amounting to Rs.11,51,000/- in the Co-operative Bank of Rajkot. Vide above stated notices issued and served upon the assessee asking to the assessee to file various details related to justifying his cash deposit made in his bank account during the demonetization period. However, assessee has not provided sufficient proof of source of this amount, deposited during period of demonetization, therefore, the assessing officer made addition to the tune of Rs.11,51,000/-, as an unexplained investment in the hands of the assessee, within the meaning of section 69A of the Act.
4. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the Ld.CIT(A), who has confirmed the action of the Assessing Officer. The ld. CIT(A) noted that during the assessment proceedings, assessee has failed to prove the genuineness of the cash deposit with documentary evidences, therefore ld. CIT(A), confirmed the addition made



by the assessing officer. Further aggrieved, by the order of the Id. CIT(A), the assessee is in appeal before us.

5. Learned Counsel for the assessee, argued that assessee sold his property during the demonetization period and deposited amount in the bank account. It was explained before the Assessing Officer that withdrawal was made from the bank, and bank account clearly shows withdrawal of cash. The bank statement was also submitted before the Assessing Officer (vide paper book page no.40 of the assessee's paper book). Besides, the assessee has submitted a plethora of documents, before the assessing officer, such as, balance sheet, profit and loss account, capital account, cashbook, cash deposited statement during demonetization period, total income computation statement, income tax receipts etc, to prove his claim. Before the Ld.CIT(A), the assessee submitted all the evidences which were produced before the Assessing Officer. Therefore, the source of money, which was deposited, during the demonetization period, has been clearly explained by the assessee, hence addition made by the assessing officer may be deleted.

6. On the other hand, the Ld. Senior DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

7. 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 it is an admitted fact that the assessee had deposited Rs.11,51,000/-, in SBNs, on 12-11-2016. Before the Assessing Officer, the assessee furnished a cash flow statement evidencing cash withdrawal of



Rs.19,25,000/- in Financial Year (FY) 2015-16. In addition to this, before the assessing officer, the assessee furnished, documents, such as, balance sheet, profit and loss account, capital account, cashbook, cash deposited statement during demonetization period, total income computation statement, income tax receipts etc, to prove his claim. The source of cash deposit, was partly came from the sale of property in previous year and after selling the property, the assessee wanted to purchase another property, therefore, the assessee withdrew cash from the bank but after withdrawal of the cash from the from bank account, the Demonetization Scheme was announced by the Central Government, therefore, deposited the same in the bank account. We find that the amount deposited during demonetization period to the tune of Rs.11,51,000/-, was partly from the property sold during previous year, and partly from the 'cash in hand' from his business and partly from past savings. The assessee has submitted the summary of cash withdrawn from the bank, before the Bench. The assessee also submitted the cash book and the bank statement, which are placed at paper book page nos. 61 to 67. However, we find that after all, these documents are self-serving documents, therefore, entire addition cannot be deleted.

8. We also find that the assessing officer, had not specifically identified any specific defects in the purported evidences and also taking note of the fact that the assessing officer, has not held that these evidence filed by the assessee are bogus. Therefore, we find some merit in the contention of the Id. Counsel for the assessee. Therefore, we find that while the case of the assessee merits some relief, at the same time entire relief cannot be permitted to the assessee. In our view the ends of justice would be met, if a net profit rate of 10% is adopted on the amount of cash deposited in the bank account, since the same would take care of the inconsistencies, in the various documents and evidences submitted



before the lower authorities. Therefore, in order to plug the leakage of revenue, we direct the assessing officer to make addition at the rate of 10% of Rs.11,50,000/-, in the hands of assessee, which comes to Rs.1,15,000/-.

9. Before parting, we hereby make it clear that since the assessee had explained the source of cash deposit, therefore, 10% addition of Rs.1,15,000/-, sustained by us, should be taxable under the normal rate of income-tax (not u/s 115BBE of the Act).

10. In the result, the assessee's appeal is partly allowed, in about terms.

Order pronounced in the open court on 07/05/2025.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/**JUDICIAL MEMBER** लेखा सदस्य/**ACCOUNTANT MEMBER**
राजकोट /Rajkot
दिनांक/ Date: 07/05/2025
DKP Outsourcing Sr.P.S
आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Assessee
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेशसे,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण ,राजकोट