

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.881/Ind/2024
Assessment Year: 2013-14

Pradeep Hirani, Prop. M/s Fountain Head, Shop No.34, Bus Stop No.10, Arera Colony, Bhopal (Assessee/Appellant)	<u>बनाम/</u> Vs.	Assessment Unit, Income-tax Department (Revenue/Respondent)
PAN: ABOPH8456N		
Assessee by	Shri Yash Kukreja & Shri Hitesh Chimnani, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	24.06.2025	
Date of Pronouncement	30.06.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 24.10.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 16.05.2023 passed by learned Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s. 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2013-14, the assessee has filed this appeal on following grounds:

"1. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the erroneous addition of Rs. 8,00,000/- made by

the Ld. AO, when the source of the said receipts was clearly explained by the assessee. The said addition was purely based on conjectures and surmises.

2. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 8,00,000/- made by the Ld. AO u/s 69 of the Income Tax Act, 1961 on account of amount received from Bhumika Hirani and Mohanlal Hirani of Rs. 4,00,000/- each, without properly appreciating the facts of the case and submissions made before him.

3. The appellant craves leave to add, amend, modify, or withdraw any of the grounds of appeals at the time of hearing."

2. The background facts leading to present appeal are such that for the AY 2013-14 under consideration, the assessee filed original return on 28.03.2014 declaring total income of Rs. 3,80,010/- which was assessed. Subsequently, the AO, on the basis of an information of purchase of immovable properties by assessee during the relevant year, re-opened assessee's case u/s 148 through notice dated 19.07.2022 after following the procedure of section 148A(d). Ultimately, the AO completed assessment vide order dated 16.05.2023 after making an addition of Rs. 1,50,50,000/- on account of unexplained investment in properties u/s 69. Aggrieved, the assessee carried matter in first-appeal and got relief to a large extent except for an addition of Rs. 8,00,000/- sustained by Ld. CIT(A) in respect of loan of Rs. 4,00,000/- each taken by assessee from Smt. Bhumika Hirani (wife) and Shri Mohan Lal Hirani (father). Still aggrieved by the addition so sustained by CIT(A), the assessee has come in next appeal before us.

3. Presently, the issue before us is the addition of Rs. 8,00,000/- made by AO and sustained by CIT(A). Admittedly, the assessee has shown a loan

of Rs. 4,00,000/- each from Smt. Bhumiika Hirani (wife) and Shri Mohan Lal Hirani (father), thus aggregating to Rs. 8,00,000/-.

4. Ld. AR for assessee carried us to relevant para 4.5(a) of assessment-order wherein the AO has dealt this addition. For an immediate reference, we re-produce the said para:

“4.5 a) Unsecured loan taken from Bhumiika Hirani and Mohanlal Hirani: During the assessment proceedings in regard to the source of investment made in the agricultural lands purchased by him, he has stated that he has taken unsecured loan from Bhumiika Hirani and Mohan Lal Hirani of Rs 4,00,000/- each. In support of the loan taken, assessee has submitted copy of their bank statement. On verification of the said bank statement, it is noticed that in their bank account cash of Rs 4,00,000/- each has been deposited on the same date i.e. on 17.09.2012 when the unsecured loan was given to the assessee for purchase of the above-mentioned lands. In reply to the show cause, assessee has stated that the cash deposits has been made out of cash withdrawals of Rs 18,00,000/- made on 18.08.2012 and 21.08.2012 from the assessee's bank account and stated that he was planning to buy the third property on the same date but to some unavoidable circumstances was unable to do so. Amount of Rs. 18,00,000/- was withdrawn by the assessee keeping in mind the amount of stamp duty to be paid for all the three properties. The reply submitted has been duly considered but the same is not acceptable. In support of cash withdrawals utilization, assessee has not submitted documentary evidence in regard to agreement of purchase made for proposed purchase of the land mentioned for which the cash has been withdrawn. The reply submitted is just an afterthought of the assessee to cover up the above-mentioned cash deposits in the bank accounts. Hence, the unsecured loan taken from Bhumiika Hirani of Rs 4,00,000/- and Mohan Lal Hirani of Rs 4,00,000/- aggregating to Rs 8,00,000/- remains unexplained.”

[underline supplied by us]

5. Ld. AR read over the above para of assessment-order line by line and explained the facts meticulously. He submitted that the assessee withdrew a sum of Rs. 18,00,000/- from his bank a/c (Rs. 10,00,000 on 18.08.2012 + Rs. 8,00,000 on 21.08.2012; the relevant bank statement showing these withdrawals is filed at Page 5 of Paper-Book) in order to meet the funds

required to pay stamps duty for purchase of three properties on 21.08.2012; these three properties are identified as (i) 4.33 acre at village Rapadia [Property/Part-1], (ii) 1.35 acre at village Rapadia [Property/Part-2], and (iii) 0.20 acre at village Rapadia [Property/Part-3]. Basically, these are three parts of the same property. But, however, only Property/Part-2 and Property/Part-3 could be registered immediately on 21.08.2012, the seller delayed registration of Property/Part-1 which was ultimately got done on 12.02.2013. Ld. AR referred the registered-deed of Property/Part-1 in open court to show that the registration was actually done on 12.02.2013. Therefore, the stamp duty of Property/Part-1 could not be paid immediately and there remained unutilized money out of the aforesaid withdrawals made by assessee from his bank a/c. The assessee ultimately re-deposited Rs. 4,00,000/- in his own bank a/c (the bank a/c from which money was withdrawn); Rs. 4,00,000/- in bank a/c of Smt. Bhumika Hirani and Rs. 4,00,000/- in bank a/c of Shri Mohan Lal Hirani. All these deposits were made on the same day of 17.09.2022 which is very much evident from bank statements of respective parties filed in Paper-Book. Thereafter, the assessee took loan of Rs. 4,00,000/- each from Smt. Bhumika Hirani and Shri Mohan Lal Hirani on 17.09.2022. Thus, Ld. AR submitted, the deposits in the a/cs of Smt. Bhumika Hirani and Shri Mohan Lal Hirani were made out of cash withdrawals made by assessee himself from his own bank a/c and the same money was received as loans from those two parties; this factual aspect was very genuinely and honestly submitted to AO during assessment proceeding

[as noted by AO himself in assessment-order, relevant para of assessment-order re-produced above] as also to the CIT(A) during first appeal stage [copy of letter filed by assessee to CIT(A) is placed at Page 20 of Paper-Book] and the assessee continues to make the same submission before ITAT also. Referring to assessment-order, Ld. AR submitted that the AO has rejected assessee's submission by raising only this objection: "In support of cash withdrawals utilization, assessee has not submitted documentary evidence in regard to agreement of purchase made for proposed purchase of the land mentioned for which the cash has been withdrawn." But the fact that assessee purchased three properties/parts on 21.08.2012 and out of such deal, the registration of Property/Part-1 could not be done immediately, the same was delayed and ultimately made on 12.02.2013 is manifest from the sale-deed of Property/Part-1 itself. Thus, the objection raised by AO that no evidence was submitted in regard to the proposed purchase, is clearly addressed and ruled out. Finally, Ld. AR harped on assessee's submission that the source of moneys deposited in bank a/cs of Smt. Bhumika Hirani and Shri Mohan Lal Hirani (which were subsequently taken as loans from those parties) stands very much explained which is basically the cash withdrawals made by assessee himself from his bank a/c. Therefore, the addition made by AO must be deleted.

6. Per contra, Ld. DR for revenue at first referred Para No. 7.2 of impugned order wherein the CIT(A) has given his observation as under:

"7.2 The appellant has withdrawn Rs. 18,00,000/- on 18.08.2012 and 21.08.2012. If he has withdrawn this amount from his bank account number 3004850475, as evident, there was no reason for him to deposit the cash in some other accounts. He could have very well deposited in his own account from where he had withdrawn the cash. Therefore, he depositing Rs. 8,00,000/- in some other accounts in cash and taking the same as loan on the very same day, looks to be a fishy transaction, which no prudent person will do."

7. Ld. DR very strongly supported the above observation of CIT(A) while adding further that in present case, the assessee has deposited Rs. 4,00,000/- in his own bank a/c and at the same time deposited Rs. 4,00,000/- each in the a/cs of Smt. Bhumika Hirani & Shri Mohan Lal Hirani. He submitted that when the assessee re-deposited part of the money in his own a/c, the assessee could very well deposit entire money in his own a/c, there was no reason to deposit in others' a/cs. He further drew us to the "Loan Confirmation Certificate" of both parties filed by assessee available in Paper-Book at Pages 8 & 13 and submitted that each party has merely confirmed that she/he has given unsecured loan of Rs. 4,00,000/- to assessee but nowhere in such certificate, the facts cited by assessee are confirmed i.e. nowhere the parties have confirmed that it was assessee's money which was deposited in their bank a/cs and given back to assessee by way of loan. Therefore also, according to Ld. DR, the claim raised by assessee is not substantiated and cannot be believed.

8. In rejoinder, Ld. AR submitted that it is true that the "Loan Confirmation Certificates" given by the parties are silent qua the source of deposits in their bank a/cs but it is a genuine fact that the assessee's own

money was deposited in their bank a/cs. He submitted that during assessment-proceedings, identical certificates were filed in respect of various loan creditors (including these two parties) and all certificates were on the same style & pattern and in none of the certificates, the sources of loans were mentioned. Therefore, in these two certificates also the sources of loans were not mentioned. Ld. AR, however, insisted that (i) the factum of cash withdrawals made from assessee's bank a/c is proved from bank statement of assessee, (ii) the intention/purpose of withdrawal (i.e. payment of stamp-duty of purchased property) is established, (iii) the circumstance due to which such withdrawn money could not be utilized (i.e. non-registration of one property/part-1 by seller till 12.02.2023) is proved, and (iv) it is also proved that the assessee re-deposited Rs. 4,00,000/- in his own a/c and identical amounts of Rs. 4,00,000/- in the a/cs of his wife and father. Thus, the assessee has consistently explained the genuine and real facts to AO, CIT(A) and now claiming the same facts before ITAT. Therefore, the assessee's version must be accepted and should not be rejected on the ground of mere suspicion.

9. We have considered rival submissions of both sides and carefully considered the orders of lower authorities. The dispute in present case relates to the source of investment in property purchased by assessee and the quantum of dispute is Rs. 8,00,000/-. The assessee has taken loan of Rs. 4,00,000/- each from Smt. Bhumiika Hirani and Shri Mohan Lal Hirani who

are his wife and father respectively. The assessee is claiming that he withdrew a total sum of Rs. 18,00,000/- from his bank a/c on 18.08.2012 & 21.08.2012 since he entered into a deal for purchase of a property in three parts from seller and needed money to pay stamp duty. However, the registration of only two properties/parts was done on the day of 21.08.2012 and the registration of property/part-1 could not be done which was ultimately got done on 12.02.2023. Hence, the money withdrawn from bank for payment of stamp-duty remained unutilized partly and this unutilized money was subsequently re-deposited in three bank a/cs i.e. Rs. 4,00,000/- in assessee's own a/c; Rs. 4,00,000/- in a/c of Smt. Bhumika Hirani and Rs. 4,00,000/- in the a/c of Shri Mohan Lal Hirani. Thereafter, the assessee took loan of Rs. 4,00,000/- from Smt. Bhumika Hirani and Rs. 4,00,000/- from Shri Mohan Lal Hirani. The assessee has submitted these facts to the AO during assessment-proceeding but the AO has rejected assessee's submission by assigning reason that the assessee did not file any documentary evidence in regard to agreement made for proposed purchase of the land. In this regard, the assessee has filed the registered sale-deeds of purchased properties/parts in the Paper-Book/separately during hearing before us and demonstrated that the registration of property/part-1 was done on 12.02.2013 and the registration of other properties/parts was immediately done on 21.08.2012. Thus, the assessee has filed evidence of proposed purchase and payment of stamp duty as required by AO. The Ld. DR for revenue has not controverted this part of submission by Ld. AR.

Thus, the objection raised by AO in assessment-order is dissolved. Ld. DR has merely emphasized the order of CIT(A) and submitted that the assessee could very well re-deposit the entire money in his own bank a/c and there was no necessity to deposit part of the moneys in the a/cs of Smt. Bhumika Hirani and Shri Mohan Lal Hirani. Further, Ld. DR claims that in the confirmatory certificates given by Smt. Bhumika Hirani and Shri Mohan Lal Hirani, they have simply confirmed having given loans to assessee but not confirmed the source of loans. So far as this contention raised by Ld. DR is concerned, we find that the assessee withdrew a total of Rs. 18,00,000/- from his bank a/c but part of such withdrawn money could not be utilized since the registration of property/part-1 was delayed and thereafter the assessee re-deposited three equivalent sums i.e. Rs. 4,00,000/- in his own bank a/c, Rs. 4,00,000/- in the a/c of Smt. Bhumika Hirani and Rs. 4,00,000/- in the a/c of Shri Mohan Lal Hirani. The re-deposits in all three accounts are of equivalent amounts of Rs. 4,00,000/- and have been made on the very same day of 17.09.2022. Thus, there is a symmetry in assessee's action. Further, Shri Bhumika Hirani is assessee's wife and Shri Mohan Lal Hirani is assessee's father. They are close family members and not strangers/ outsiders. Further, the time gap between cash withdrawals from bank (18.08.2012/21.08.2012) and re-deposit in bank a/cs (17.09.2012) is a few days and not inordinate. Therefore, the claim of assessee is fully supported by circumstances and there is nothing unusual in facts so as to deny assessee's claim. Moreover, the AO's objection was limited to the point

that the assessee did not file any evidence for proposed purchase of property but such objection stands fully dissolved and the Ld. DR has not refuted the Ld. AR's submission in that regard. Thus, considering the entire conspectus of case in a holistic and judicious manner, we agree to the submission of assessee that the impugned loans taken by assessee from his wife and father were actually sourced from the deposits made by assessee in their bank a/cs which, in turn, were sourced from the previous withdrawals made by assessee from his bank a/c. In that view of matter, the source of investment made by assessee in the property/part is adequately explained and the addition made/upheld by lower-authorities disbelieving assessee's submission is not sustainable. Accordingly, we direct the AO to delete the addition. The assessee succeeds in this appeal.

10. Resultantly, this appeal is allowed.

Order pronounced in open court on 30/06/2025
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Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 30/06/2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore