

IN THE INCOME TAX APPELLATE TRIBUNAL JODHPUR BENCH, JODHPUR.

BEFORE: DR. MITHA LAL MEENA, ACCOUNTANT MEMBER &

DR. S. SEETHALAKSHMI, JUDICIAL MEMBER

I.T.A. No. 127/Jodh/2025

Assessment Year: 2017-18

Shankar Narayan Agarwal Sunaro Ki Ghati, Sarafa Bazar, Jodhpur.	Vs.	Income Tax Officer, Ward 3(1), Jodhpur.
PAN No. ABLPA5212G		
Appellant		Respondent

Appellant by	Sh. Mahaveer Loonker, Advocate
Respondent by	Sh. Karni Dan, Addl.CIT (Sr.DR)

Date of Hearing	06/05/2025
Date of Pronouncement	25/06/2025

ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This is an appeal filed by the assessee against the order of Id. CIT (A), National Faceless Appeal Centre (NFAC), Delhi dated 20.01.2025 passed under section 250 of the I.T. Act, 1961, for the assessment year 2017-18. The assessee has raised the following grounds of appeal :-

“1. That the ld. CIT Appeal NFAC erred in not accepting explanation submitted by assessee before him and also before assessing authority in regard to making addition of Rs. 11,78,500/- as unexplained money.

2. That the learned ITO and CIT Appeal does not prove that amount previously withdrawn from bank neither invested or used by assessee as such the order under appeal is bad in law thus deserves to be set aside.

3. That the learned ITO and CIT Appeal not follow the various decision of ITAT submitted before both of them and decision taken contrary to such decision is bad in law and bad in facts.

4. That your appellant reserves the right to add, amend and alter any of ground or grounds of appeal before the hearing of appeal.”

2. The brief facts of the case are that the assessee is retired from Medical & Health Department of Rajasthan Government. The return of income under section 139(1) of the I.T. Act, 1961 was e-filed on 24.07.2017 declaring total taxable income of Rs.6,55,600/-. The case of the assessee was selected for limited scrutiny under section 143(3) of the IT Act, 1961 by CASS, on the ground that the assessee has cash deposited a sum of Rs. 13,81,500/- in his bank account during demonetization period. Notice under section 143(2) of the IT Act, 1961 was issued on 21.09.2018 and the issue identified for examination as per Notice was “Cash Deposit during demonetization period”. Notices under section 142(1) of the IT Act, 1961 were issued from time to time requiring the assessee to furnish relevant details/information during the assessment proceedings Online electronically

through E-filing account of the assessee. In compliance to the notice, the assessee furnished the required details/information explaining the cash deposit of Rs. 13,81,500/- in the bank. The AO considered the explanation of the assessee but he could not find it fully acceptable. Accordingly, the AO after allowing credit of Rs. 2,03,000/- out of total cash deposit of Rs. 13,81,500/-, which was already withdrawn from the SB account no. 51039264675 of the SBBJ, Jalori Gate, Jodhpur by the appellant before 08.08.2016 (3 months prior to 08.11.2016), the remaining amount of Rs. 11,78,500/- (Rs. 13,81,500 – Rs. 2,03,000) was treated as unexplained money as per section 69A of the IT Act, 1961, as the assessee could not adduce any satisfactory explanation except illogical explanation. Aggrieved by the order of the AO, the assessee preferred appeal before Id. CIT (A), who dismissed the appeal of the assessee.

Now, the assessee has come in appeal before the Tribunal on the grounds reproduced herein above.

3. Before us, the Id. A/R of the assessee reiterated the submissions as were made before the Id. CIT (A). The assessee further submitted that the source of cash deposit of Rs. 13,81,500/- were out of cash withdrawals from his savings bank account during the period from April, 2014 to December, 2016 out of accumulated salary savings. The total withdrawal from bank account no. 51039264675 for the above referred period was Rs. 16,14,000/-. Out of the above sum, an amount of Rs.

13,81,500/- was lying with the assessee in cash as on 08.11.2016 the night when demonetization has been declared. The assessee has deposited the above referred old notes of Rs. 13,81,500/- in his bank account. The assessee submitted that the above referred amount was lying with the assessee out of salary savings. The assessee was a State Government employee and was getting salary of Rs. 60,000/- to Rs. 70,000/- per month approximately. The family members of the assessee are consist of two members i.e. assessee himself and his wife. The assessee's wife was also in service with Government School as Teacher and was getting salary approximately Rs. 35,000/- to Rs. 40,000/- per month. She was retired in July, 2014 and getting pension of Rs. 28,000/- per month approximately. Thus, the assessee has submitted that the source of cash deposit in bank during demonetization period, was out of withdrawals from his savings bank account, which was lying with him.

The assessee, therefore, prayed that the addition may kindly be deleted.

4. On the other hand, the ld. DR supported the order of the ld. CIT (A) and submitted that the same be sustained.

5. We have heard the rival submissions as well as the relevant material on record and gone through the orders of the lower authorities. The assessee is a retired employee of Medical & Health Department of Rajasthan Government. He was getting salary of Rs. 60,000/- to Rs. 70,000/- per month approximately. The

return of income under section 139(1) of the I.T. Act, 1961 was e-filed on 24.07.2017 for the year under consideration declaring total taxable income of Rs.6,55,600/-. The assessee's wife was also in service with Government School as Teacher and was getting salary approximately Rs. 35,000/- to Rs. 40,000/- per month. She was retired in July, 2014 and getting pension of Rs. 28,000/- per month approximately. The Id. A/R of the assessee submitted that the assessee has made the cash deposit of Rs. 13,81,500/- in his bank account during demonetization period from 09.11.2016 to 30.12.2016 which was lying with him out of cash withdrawal of Rs. 16,81,500/- from his savings bank account no. 51039264675, the details of the same were furnished during assessment proceedings vide assessee's letter dated 12.07.2019. The assessee has also furnished Form No. 16 in respect of salary income for the Financial Years 2014-15 and 2015-16 during the assessment proceedings on 27.07.2019. On perusal of record, we also find that the assessee had no other sources of income except salary, the AO could not bring any material on record to state otherwise. At the time of hearing before us, the assessee submitted that the cash deposited during the demonetization period amounting to Rs. 13,81,500/- has been deposited out of his accumulated salary savings. The assessee further submitted that during the period from April, 2014 to December, 2016 the assessee has withdrawn a sum of Rs. 16,14,000/- from his bank account no. 51039264675 and copy of bank statement had been submitted to the AO during

assessment proceedings on 12.07.2019. The assessee has submitted the details of amount withdrawn from bank as under :

April 2014 to March 2015	Rs. 5,53,000/-
April 2015 to March 2016	Rs. 6,16,000/-
April 2016 to December 2016	Rs. 4,45,000/-
Total :	----- Rs.16,14,000/- -----

The AO dis-believed that such huge cash withdrawn from the savings bank account was kept by the assessee in his house and later deposited back in the bank during demonetization period. The AO noted that the explanation offered by the assessee appeared to be impractical and illogical. The AO could not bring on record that the cash withdrawn from Saving Bank Account was used for any other purpose anywhere else. The ld. A/R of the assessee, in support of his case, placed reliance on the following decisions of the Tribunal :

ITA No. 35 & 36/Jodh/2012 dated 30.03.2012
In case of Rajendra Kumar Jain (Patangia) vs. ITO.

ITA No. 987/JP/2011 dated 03.01.2012
In case of Smt. Suman Shah vs. ITO.

We have also noted the following judgements of other tribunals on the similar issues :-

- i. DCIT vs. Pawan Agarwal (ITAT, Lucknow) (ITA No. 374/LKW/2013 vide order dated 23.01.2015)
- ii. Kamlesh Kantilal Bhandari v/s ITO, Ward 1 , Ahmednagar (ITAT, Pune) (ITA No. 1320/PN/2016 vide order dated 29.07.2016)
- iii. M/s. Karan Realty P Ltd. v/s ITO, Ward 2(1)(2) (ITAT, Ahmedabad) (ITA No. 2180/AHD/2018 vide order dated 08.09.2023)

In all these judgements the co-ordinate bench has observed that without any material in possession to prove the use of money lying with the assessee for some other purpose other than that claimed, no addition can be made by department.

Upon consideration of the above facts, we find that assessee deserves to succeed in his appeal. It is noticed that assessee and his wife were Government employee and Government School Teacher and their total earning from salary was Rs. 95,000/- to 1,10,000/- per month approximately. They were in service for last so many years. There is no other investment made by assessee in recent past was noticed by Assessing Officer. Therefore, out of accumulated savings of the assessee of so many years, the assessee made withdrawal of Rs. 16,81,500/- from his savings bank account no. 51039264675 and out of that amount, it is possible that the assessee cash deposited a sum of Rs. 13,81,500/- during demonetization period, which was lying with him. It is the assessee who knows as to why he was keeping cash in hand with him. It is not mandatory under any law of the land that

an individual has to keep his/her savings in the bank account only and not as cash in hand. Therefore, in our view bonafide of the assessee should have not been doubted without any cogent and corroborative material. In view of these facts and circumstances, we set aside the order of the Id. CIT (A) and delete the addition of Rs. 11,78,500/- sustained by Id. CIT (A).

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

Order pronounced under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 by placing the details on the notice board.

Sd/-

Dr. Mitha Lal Meena)
Accountant Member

Sd/-

(DR. S. Seethalakshmi)
Judicial Member

Dated 25/06/2025

Santosh- Sr. P.S

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

