

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
(Hybrid Hearing)**

**I.T.A. No. 714/Asr/2024
Assessment Year: 2017-18**

Sukhmeet Kaur, Village Waryam Nangal, Punjab. [PAN:-EKHPK0600M] (Appellant)	Vs.	ITO, Ward, 4(5), Amritsar. (Respondent)
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Appellant by	Sh. Jittin Prinja, Adv.
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	09.07.2025
Date of Pronouncement	18.08.2025

ORDER

Per: Udayan Dasgupta, J.M.:

This appeal is filed by assessee against order of Ld. CIT (A), NFAC, Delhi, passed u/s 250 of the Act 1961, dated 11.11.2024 which has emanated from the order of the AO, Ward 4(5), Amritsar, dated 16/12/2019, passed u/s 144 of the Act.

2. The grounds of appeal in Form No. 36 are as under:

“1. On facts and in the circumstances of the case, CIT(A) has erred in confirming adhoc addition of Rs. 10,41,300/- made by the Assessing Officer.

2. On facts and in the circumstances of the case, CIT(A) has erred in confirming addition of Rs. 10,41,300/-made by the

Assessing Officer regarding total amount deposited by the assessee in her bank account.

3. *On facts and in the circumstances of the case, CIT(A) has erred in confirming that the Assessing Officer did not allow proper opportunity to the assessee whereas assessee was out of country for higher studies abroad at Canada.*

4. *On facts and in the circumstances of the case, CIT(A) has erred in confirming addition of Rs. 10,41,300/-made by the Assessing Officer ignoring the facts that cash deposited in saving bank account is totally out of cash in hand, amount received from close relatives and agriculture income required for payment of fees to university. There is no any capital investment made by the assessee. Source of cash deposits are genuine and verifiable. The assessee prays that the addition of Rs. 10,41,300/- should be deleted.*

5. *Without prejudice to ground nos. 1 to 4, on facts and in the circumstances of the case, CIT(A) has erred confirming action of the Assessing Officer in treating cash deposited during demonetization period as unexplained cash and applied tax rate as mentioned in section 115BBE. The assessee prays that the addition of Rs. 10,41,300/-- should be deleted and taken lenient and sympathetic view against the appellant.*

6. *Without prejudice to ground nos. 1 to 4, on facts and in the circumstances of the case, CIT(A) has erred confirming action of the Assessing Officer in levying tax u/s 115BBE(1) @60 % instead of 30% on alleged unaccounted sum of Rs. 10,41,300/- Assessee has made said transactions prior to 15-12- 2016 i.e the date on which "The Taxation Law(Second Amendment) Bill 2016"*

received ascent of the Hon'ble President of India and amendment made by "The Taxation Law (Second Amendment) Bill, 2016" in section 115BBE(1) to charge tax @ 60% on deemed income instead of earlier rate of 30% was substantive in nature, hence either it would apply prospectively to the transactions made on or after 15-12-2016 and not retrospectively to the transactions made during the period 01-04-2016 to 14-12-2016 or apply from A.Y 2018-19 onwards.

7. *On facts and in the circumstances of- the case, CIT(A) has erred in confirming addition of Rs. 10,41,300/-made by the Assessing Officer that the cash deposited in bank account for payment of university fees. Appellant received offer letter on 20-09-2016 and admission fees was to be deposited before 30-11-2016. So there is no reason for deposit cash after demonetization. All the documentary evidence filed before CIT(A)NFAC but not bothered to examine the documents and mentioned in order that "Evidence is not enough".*

8. *On facts and in the circumstances of the case, CIT(A) has erred in confirming addition of Rs. 10,41,300/-made by the Assessing Officer that the Tax Levied u/s 115BBE on Gross deposit in saving bank account without providing basic exemption limit i.e Rs. 5,00,000 for the year under consideration, which is totally against the natural justice with any citizen, and a small poor student consolidated funds from parents and relatives for her higher studies.*

9. *That the appellant craves leave to add to, alter, amend modify, substitute, delete and or rescind any ground of appeal on or at the time of hearing, if necessity so arises."*

3. The brief facts emerging from record are that the assessee has deposited cash amounting to Rs.10,15,000/- (*ten lakhs fifteen thousand*)in her bank account during the *demonetisation period* maintained with ICICI Bank A/c No. xxxxxx04296. In absence of any return on record, proceedings has been initiated by issue of notice u/s 142(1) of the Act, 61 calling for return of income and for explanation of the source of SBN deposited in bank account. In absence of any representation from the assessee in response to various notices issued in course of assessment proceedings, the assessment was finally completed *ex parte* on a total income of Rs.10,41,300/- (*including the SBN deposit treating the same to be unexplained u/s 69A of the Act*).

4. The matter was carried in appeal and the Id. CIT(A) dismissed the appeal by observing as follows:

“6. 1.1. *The appellant submits that “cash deposited in saving bank account by the parents out of savings in their hands for university fee abroad at Canada. That the mother of the assessee is Government employee as teacher having salary income of Rs. 7,00,000/- and father of the. assessee is an agriculturist having income from agriculture, and assessee Miss Sukhmeet Kaur was also earning hand as tuition work. Cash deposited in saving bank account Rs. 10,41,300/- is totally out of cash in hand, amount received from close relatives and agriculture income required for the payments of fee to university. Source of cash deposits are genuine and verifiable.*

A written submission is not enough to claim that the sources of cash deposits are from the parents and relatives but rather the assessee should submit the evidences of earning such sources in the hands of the parents and relatives and the proofs/evidences of withdrawals from their bank accounts. Also the details of tuition income earned by the appellant have not been furnished. Appellant claimed her father carried out agriculture but did not produce any proof of earning such income, such agriculture land owned by him, etc. Further, it is not for the assessee to self-certify that the sources of cash deposits are genuine and verifiable but to prove and establish before the authorities with the support of evidences. It is seen in the bank statement that immediately after deposit of cash in the bank account, the amount was transferred through banking channels and so the utilization is not in doubt and indeed the utilization must have been for the benefit of her studies abroad, which also means that the cash deposits are for the benefit and appropriation by the appellant herself. But the sources of deposits are still in doubt given the fact that the appellant could not establish the identity and creditworthiness of the lenders/sources and genuineness of the transactions along with establishing the immediate sources in the hands of the lenders/source persons.

6.2. As evident from para 5 above, the appellant was given sufficient time to present her case. Despite sufficient time to submit written explanations' and supporting documents, the appellant failed to provide any documentary evidence, supporting the claims made in the grounds of appeal on the lines and manner required as mentioned in para 6.1 above. While filing the appeal, the appellant submitted statement of facts and grounds of appeal. The

appellant has failed to respond to the notice even after allowing sufficient time.

6.3. *The appellant has not adduced any evidence either in his support or to refute the observations made by the AO. Sufficient time was allowed, however, the appellant did not file any submission or documentary evidence either against the observation of the AO or in favour of the claim made in the grounds of appeal. In the absence of the documentary evidence, the appeal cannot be adjudicated. Hon'ble Supreme Court in the case of CIT Vs. B.N. Bhattacharjee and others [1970] 10 CTR 354 (SC) observed that preferring an appeal means effectively pursuing it. The Hon'ble M.P. High Court in the case of Estate of Late Tukojirao Holkar Vs CWT [1979] 223 ITR 480 (M.P.) dismissed the reference filed at the instance of the assessee for default and for not taking necessary steps. Similarly considering the case at hand the appellant has not filed any submission even after allowing sufficient opportunities, and therefore, the same ratio is applicable here. This view has been affirmed by Hon'ble ITAT Ahmedabad in the case of Amitkumar H. Shah Vs. ACIT in ITA No. 2985/Ahd/2010 vide their order dated 31/12/2013, wherein following the order of ITAT, Delhi Bench in the case of CIT vs. Multiplan India Pvt. Ltd. [1991] 38 ITD 320 (Del), ITAT has dismissed the appeal filed by the assessee for want of prosecution.*

6.4 *Under these circumstances, the current appeal of the appellant is liable to be dismissed and accordingly dismissed.”*

5. Before the Tribunal the ld. AR of the assessee submitted that the amount was deposited in bank for payment of university fees and the fact that the said fees has been paid are apparent from the entries in the bank statement. He further submitted that all documentary evidences explaining the source of cash deposits in bank has been filed before the first appellate authority which has never been properly considered. He further submitted that the source of cash has been funded partly by the mother of the assessee (*who is a Government employee*), partly by the father, who is *an agriculturist* having sufficient agricultural income and out of the assessee's own income from tuitions. As such, he prays for an opportunity of hearing so that supporting documentary evidences may be adduced as per satisfaction of appellate authorities.

6. The ld. DR relied on the order of the Ld CIT (A) and submitted that in absence of any documentary evidence regarding the source of income as claimed by the assessee and her parents, no benefit can be allowed, but he has no objection if the matter is remanded for examination of fresh evidences for rendering proper justice.

7. We have heard the rival submissions and considered the materials on record and we are of the opinion that in the interest of justice the documentary evidences which are supposed to be in possession of the assessee (*and her parents*), relating to salary receipts as Government employee and evidence of agricultural income,

needs to be examined by the AO, and as such, we set aside the matter back to the file of the AO for fresh assessment after allowing proper and reasonable opportunity of being heard to the assessee and we also direct the assessee to submit all necessary documentary evidences in support of her case explaining the source of the cash deposit in her bank account, during the demonetisation period.

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

Order pronounced on 18.08.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(MANOJ KUMAR AGGARWAL)
Accountant Member

Sd/-

(UDAYAN DASGUPTA)
Judicial Member

AKV

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

