

IN THE INCOME TAX APPELLATE TRIBUNAL

"K (SMC)" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.4129/Mum/2025
(Assessment Year : 2017-18)

Zeba Zubair Khan,

18, Pathak Niwas, Mishra Niwas,
Behind Bellur Park Hotel,
Laxman Mhatre Road,
Kanderpada, Dahisar (West)
Mumbai - 400068
PAN : BMIPK8575R

..... Appellant

v/s

Income Tax Officer - 42(1)(4),
Mumbai

..... Respondent

Assessee by : Shri Poojan Mehta

Revenue by : Shri Bhagirath Ramawat, Sr.DR

Date of Hearing - 28/08/2025

Date of Order - 04/09/2025

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 06/11/2024, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2017-18.

2. The present appeal is delayed by 139 days. Along with the appeal, the assessee has filed an application seeking condonation of the delay in filing the

present appeal, which is duly supported by her affidavit. According to the assessee, she is a housewife after her marriage. As per the assessee, the impugned order passed by the learned CIT(A) on 06/11/2024 came to her knowledge only on 04/06/2025. The assessee further submitted that in January 2025, she became pregnant and was required to take proper rest and attend regular medical check-ups at the hospital; therefore, she was unable to keep track of the appeal pending before the learned CIT(A). In this regard, the assessee has also placed on record her medical prescriptions and test reports. It is submitted that on 04/06/2025, she received an intimation from the Income-tax Department, which she forwarded to her tax consultant. Thereafter, she was informed by the tax consultant that the learned CIT(A) passed the order in her appeal on 06/11/2024, partly upholding the additions. Accordingly, the necessary steps were taken to file the present appeal before the Tribunal. The assessee submitted that there was no mala fide intention, and the assessee does not stand to benefit from the late filing of the present appeal. Accordingly, the assessee prayed for condonation of the delay in filing the present appeal.

3. Having considered the submissions of the assessee on perusal of the application and supporting documents filed by the assessee, we are of the considered view that there was sufficient cause which prevented the assessee from filing the present appeal within the prescribed limitation period. Accordingly, we condone the delay in filing the present appeal and proceed to decide the appeal on the merits.

4. In this appeal, the assessee has raised the following grounds: –

"The National Faceless Appeal Centre (hereinafter referred to as the CIT(A)) erred in upholding the action of the Income-tax Officer - 42(I)(4), Mumbai (hereinafter referred to as the Assessing Officer) in sustaining the addition under section 69A of the Act of Rs. 11,06,000, being the aggregate cash deposited during the demonetisation period in the bank accounts maintained by the appellant as against addition of Rs. 11,13,500 made by the Assessing Officer.

The appellant contends that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have sustained the impugned addition inasmuch as the CIT(A) has not appreciated the facts of the case in its entirety.

The appellant further contends that on the facts and in the circumstances of the case and in law, impugned addition is not in accordance with the prescription of the provision of section 69A of the Act and as such the CIT(A) ought not to have sustained the impugned addition."

5. The solitary issue that arises for our consideration, in the present case, pertains to the addition of INR 11,06,000 made under section 69A of the Act on account of cash deposited by the assessee in her bank accounts during the demonetisation period.

6. The brief facts of the case are that the assessee is an individual, and for the year under consideration, filed her return of income on 04/07/2017, declaring a total income of INR 4,77,700. The said return was treated as invalid. Subsequently, the assessee filed the revised return of income on 06/07/2017, declaring a total income of INR 3,82,230. The revised return filed by the assessee was selected for scrutiny due to the cash deposit in various bank accounts, and accordingly, statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. However, the assessee did not comply with any of the statutory notices issued during the assessment proceedings. Accordingly, a show-cause notice was also issued to the assessee, which was not responded to by the assessee. Therefore, the Assessing Officer ("AO") proceeded to complete the

assessment on the basis of the material available on record. As per the information available with the AO, the assessee had deposited cash to the tune of INR 11,13,500 in various bank accounts during the demonetisation period. Accordingly, notice was sent under section 133(6) of the Act to the Banks, calling for bank account statements, account opening forms, and KYC details. Since the assessee had not provided any explanation regarding the cash deposits, the same was considered as her income. Accordingly, vide order dated 05/12/2019 passed under section 143(3) of the Act, the entire sum of INR 11,13,500 deposited by the assessee in cash in her bank account was treated as unexplained money and added to her total income under section 69A of the Act.

7. During the appellate proceedings before the learned CIT(A), the assessee filed evidence and explanation under Rule 46A of the Rules. The learned CIT(A) forwarded the evidence furnished by the assessee to the AO and called for a remand report. However, despite granting sufficient opportunity, no remand report was received from the AO. Accordingly, in the absence of the same, the learned CIT(A) proceeded to decide the appeal filed by the assessee. Before the learned CIT(A), the assessee submitted that she received an amount of INR 9,50,000 in cash on cancellation of the agreement of sale of the land. Furthermore, she received an amount of INR 1,56,000 as compensation for the termination of her marriage, and the remaining amount of INR 7,500 was cash-in-hand. Accordingly, the assessee claimed that all the aforementioned amounts were deposited into her bank account. The learned

CIT(A), granting partial relief to the assessee and upheld the addition to an extent of INR 11,06,000, observing as follows: –

"6.2 The advance for land was given in FY 2014-15. The appellant has not clarified as to when the amount of Rs. 9,50,000 was received back. It is also not explained why the amount was not deposited in bank when the same was received. Also the appellant has not furnished any proof for having received this amount. No confirmation has been produced from the person who purportedly gave this amount. Hence this source cannot be accepted.

6.3 As per the notarised affidavit, the appellant received an amount of Rs.3,56,000 from Irfan Nabirahman Khan. This is dated 03.05.2019. Therefore it is much later than the previous year. Hence this source also cannot be accepted.

6.4 The only source of income admitted by the appellant is income from salary. This income would be credited in the appellant's bank account. Hence the possibility of appellant holding large sums in cash is ruled out. Therefore cash deposits cannot be explained in terms of accumulated savings either.

6.5 In the light of the foregoing discussion, the explanation furnished by the appellant for the cash deposits during demonetisation is not acceptable. The addition made by the AO u/s 69A is upheld to the extent of Rs. 11,06,000. Rs.7,500 claimed by the appellant as cash in hand is reasonable and hence accepted."

Being aggrieved, the assessee is in appeal before us.

8. We have considered the submissions of both sides and perused the material available on record. In the present case, on the basis that the assessee, during the demonetisation period, deposited an amount of INR 11,13,500 in cash in her bank accounts, an addition under section 69A of the Act was made by the AO in the absence of any submission by the assessee. Before the learned CIT(A), the assessee submitted that the aforesaid amount was received from the following sources: –

<i>Source of cash deposit</i>	<i>Amount</i>
<i>On account of cancellation of agreement of sale</i>	<i>9,50,000</i>
<i>On account of Permanent Alimony, Exp. Of Iddat and Meher Amount</i>	<i>1,56,000</i>
<i>Cash in hand deposited (Demonetized notes)</i>	<i>7,500</i>
<i>Total Deposit</i>	<i>11,13,500</i>

9. The learned CIT(A) only accepted the submission regarding the cash-in-hand of INR 7,500, which was deposited by the assessee in her bank account during the demonetisation period, and deleted the impugned addition to that extent. As regards the balance addition of INR 11,06,000, which was sustained by the learned CIT(A), it is the plea of the assessee that an amount of INR 9,50,000 was received by her on account of cancellation of the agreement for sale. In this regard, the assessee has placed on record the duly notarised deed of cancellation dated 02/11/2016, which forms part of the paper book from pages 30-32. Upon reviewing the same, we find that the assessee purchased land for a consideration of INR 10,29,000, as per the agreement for sale dated 28/10/2014. However, subsequently, due to some document issues and disputes amongst the parties, the deal got cancelled. Accordingly, the parties agreed to cancel the agreement for sale dated 28/10/2014, and the seller paid the amount of INR 9,50,000 to the assessee as full and final settlement. The assessee has also placed in the paper book on page 33, the confirmation from the seller of payment of INR 9,50,000 in cash.

10. Having considered the documents mentioned above, we find merit in the submission of the assessee that the amount of INR 9,50,000 was received by the assessee in cash upon cancellation of the agreement for sale, and the said money was deposited in her bank account during the demonetisation period. The mere fact that the assessee could not produce the original deed cannot go against the assessee, as no material has been brought on record to suggest that the aforesaid sales transaction was bogus. Further, from the

perusal of the impugned order, we find that the assessee made the payment of INR 10,29,000 to the seller of the land through the banking channel and the copy of the bank statement in this regard was also furnished by the assessee before the learned CIT(A). Accordingly, the addition made on account of the aforesaid cash deposit is directed to be deleted.

11. As regards the balance amount of INR 1,56,000, it is the plea of the assessee that her marriage was fixed with Mr. Irfan Khan, and as part of marriage celebration she had withdrawn an amount of INR 5,59,000 from bank accounts and made the payment to various parties for the marriage celebration, the details of which forms part of the impugned order on page 6. In this regard, the assessee has also placed on record the copy of the wedding invitation dated 25/05/2016 and the marriage certificate, which forms part of the paper book on pages 19-20. Unfortunately, the marriage did not take off from the initial date itself, and pursuant to a mutual decision, the marriage was cancelled after nearly six months. As per the assessee, she returned to her parental home soon thereafter, and it was mutually decided among the families to cancel the wedding. Accordingly, she received an amount of INR 1,56,000 from the groom's side as permanent alimony and expenses of INR 1,30,000 and Meher amount of INR 26,000 in cash in November 2016. As per the assessee, it was also agreed between the families that a further amount of INR 2 lakh shall be paid by the groom's family as their share of marriage expenses. Thus, the final deed of dissolution of marriage was to be executed only on receipt of the said amount of INR 2 lakh. Once the stated amount of 2 lakh was received on 03/05/2019, the settlement of the dissolution of

marriage was executed on the same date. The assessee has placed on record on pages 21-28 of the paper book a copy of the settlement of dissolution of marriage.

12. As per the Revenue, the settlement was executed on 03/05/2019, i.e. much after the relevant previous year. Therefore, it cannot be considered to be the source of the deposit of INR 1,56,000. However, we find that the Revenue has not disputed the fact that just before the date of marriage, i.e. on 25/05/2016, the assessee withdrew a total amount of INR 5,59,000 from her bank account. Furthermore, the assessee has also provided details of the expenditure made towards food, decoration, and the hall, as well as gifts for her wedding. It is pertinent to note that issues such as marriage and its dissolution do not require adherence to the strict commercial rule, and the outcome depends on the understanding between the parties and their families. Therefore, the fact that the deed of settlement of dissolution of marriage was executed on 03/05/2019 cannot be the sole basis to come to the conclusion that the cash of INR 1,56,000 was not received by the assessee from the groom's side as permanent alimony in the year under consideration. Thus, in the peculiar facts of the present case, we agree with the submissions of the assessee that the aforesaid cash received by the assessee was deposited in her bank account during the demonetisation period. Accordingly, the addition made on account of the aforesaid cash deposit is directed to be deleted.

13. Hence, we are of the considered view that in the facts and circumstances of the present case, the assessee duly explained the source of cash deposited

in her bank account during the demonetisation period. As a result, the impugned addition sustained by the learned CIT(A) under section 69A of the Act is deleted, and the grounds raised by the assessee are allowed.

14. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 04/09/2025

Sd/-

**GIRISH AGRAWAL
ACCOUNTANT MEMBER**

Sd/-

**SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 04/09/2025

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai