

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'E': NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTNAT MEMBER**

**ITA No.1129/DEL/2025
[Assessment Year: 2017-18]**

Nita Kothari, G-56, Kirti Nagar, New Delhi-110015	Vs	Income Tax Officer, Ward 49(1), Delhi.
PAN-ALJPK8665M		
Assessee		Revenue

Assessee by	Shri Nitin Kanwar, Adv. Shri Rajiv Kumar, Adv. Shri Shivam Jain, Adv.
Revenue by	Ms. Ankush Kalra, Sr. DR

Date of Hearing	19.01.2026
Date of Pronouncement	21.01.2026

ORDER

PER AMITABH SHUKLA, AM,

This appeal filed by the assessee is against order dated 12.02.2025 of National Faceless Appeal Centre/learned Commissioner of Income Tax(Appeals), [hereinafter referred to as 'ld. CIT(A)] arising out of assessment order dated 31.12.2019 passed under section 143(3) of the Income Tax Act, 1961 pertaining to Assessment Year 2017-18. The word 'Act' herein this order would mean Income Tax Act, 1961.

2. Brief facts of the case are that the assessee is an individual and filed the return of income on 21.03.2018 declaring total income at Rs.4,79,010/- for the

A.Y. 2017-18. During the course of assessment proceedings, the AO issued notice u/s 142(1) & show-case notice. In response to the same, the assessee has filed the details. On perusal of the documents furnished the AO came to the conclusion that the assessee had deposited cash amounting to Rs. 4,54,00,000/- for the F.Y. 2016-17 and failed to explain the source of the said cash. Hence, the Assessing Officer completed the assessment u/s 143(3) by assessing the total Income Rs.5,04,79,010/- thereby raising the tax demand of Rs.5,44,83,224/-. The Id. CIT(A) confirmed the addition made by the Id. AO through his order currently contested by the assessee. The Id. CIT(A) concluded as under:-

“....9.13 As per available records, it is ascertained that the appellant had deposited cash amounting to Rs. 4.54 crore in her bank account during the demonetization period for the source of the said cash deposit has not conclusively proved by the appellant with any verifiable, legally, valid documentary evidences. The submissions seems to be afterthought & appellant is just trying to defraud the Government by trying to make wrong claims without any proof. Hence, the claim of the appellant about the alimony of Rs. 5 crore received has not been proved and hereby out rightly rejected. The Inspector report has also stated that the appellant has not taken any divorce during the year 2019. The contention of the appellant remained unjustified and unsubstantiated. In view of the above discussion, it is found that the appellant deposited the cash amounting to Rs. 4.54 crore and source of the said cash has remained unexplained income which is required to be brought under tax as per provision of Income tax Act, 1961. Hence, the addition made by the Assessing officer is restricted to the extent of Rs. 4.54 crore (cash deposited during demonetization period). Hence, the ground is noted as partially allowed.....”

3. Per Contra, Ms. Ankush Kalra, Sr. DR supported the orders of the authorities below. She vehemently argued that there is no relationship between

the alimony received by the assessee from her divorced husband and the impugned cash deposit of Rs.4.54 crores. It was contended that the assessee has received only Rs.3 lakhs from her husband as evident from the receipt issued by her. It was further submitted that the court order is of 2019 much after the period of demonetization period.

4. We have heard the rival submissions in the light of material placed on record. It is the case of the assessee that the cash deposited by the assessee has direct connection with the alimony received by the assessee from her divorced husband. It was submitted that the alimony amount was given in cash and that therefore direct linkage between the cash deposited and the alimony receipt. The ld. Counsel presented for a perusal a voluminous paper book comprising some 721 pages. Special reference was invited to page nos.323 to 384 comprising the divorce petition under section 13(b)(1) and the order of Hon'ble District Court dated 05.12.2019. The ld. Counsel invited our attention to page-381 to 383 of its paper book extracted hereunder:-

“.....4. The marriage between petitioners Nos.1 & 2 was solemnized on 26.01.2000 at Mandar, Distt. Sirohi, Rajasthan according to Hindu rites and ceremonies, They have placed on record their marriage photograph as Ex.Pl and original marriage card as Ex.P1A. Out of this wedlock, Two children namely Vidhi Kothari (DOB 27.12.2001) and Master Aryan Kothari (DOB 22.12.2004) were born.

5. It is stated that due to temperamental differences, petitioners are unable to live together as husband and wife and are residing separately since January 2016. All the efforts for reconciliation have proved futile. It is further

stated that there is no scope for any reconciliation and marriage between the parties has broken irretrievably.

6. It is also stated that Petitioner No.1 and 2 have further stated that they have amicably resolved all their matrimonial disputes pertaining to this marriage including stridhan, permanent alimony, dowry articles and maintenance (present, past & future) for petitioner No.2 along with maintenance and all rights of minor children for a sum of Rs.32,00,00,000/- (Rupees Thirty Two Crores only) along with Rs.30,000/- per month towards household expenses w.e.f. 03.08.2015 in terms of settlement arrived at between the parties vide MOU/Settlement. Deed dated 03.08.2015. True copy of MOU/Settlement Deed placed and proved on record so Ex.P2. In terms of settlement, 1st Instalment of Rs.5,00,00,000/- (Rupees Five Crores) had already been paid at the time of signing of MOU to petitioner No.2 (copy of receipt placed on record as Ex.P2A); 2nd installment of Rs.27,00,00,000/- had been paid on 05.12.2019 before this court in the form of five post dated cheques bearing numbers (1) 000031 dated 27.01.2020 for a sum of Rs.5,00,00,000/- (2) 000032 dated 25.04.2020 for sum of 5,00,00,000/- (3) 000033 dated 21.07.2020 for a sum of Rs.5,00,00,000/- (4) 000034 dated 21.10.2020 for a sum of Rs.7,00,00,000/- and (5) 000035 20.12.2020 for a sum of Rs.5,00,00,000/- all drawn on DCB Bank, Rajouri Garden Branch, New Delhi (copies of cheques placed on record as Ex.P2B to Ex.P2F). It is also agreed between the parties that petitioner No.1 shall be handing over one second hand car preferably i-10 or Santro to petitioner No.2/wife within 03 months from 05.12.2019 for her personal use as mentioned in para 04 of MOU (Ex.P2), It is further agreed between the parties that that petitioner No. 1 shall also purchase a three rooms flat in the vicinity of Kirti Nagar, New Delhi or nearby area within next two years in the name of minor son Aryan Kothari under guardianship of petitioner No.2/wife for living purposes of the second party/wife and children as mentioned in para 05 of MOU (Ex.P2). It is also agreed between the parties that permanent custody of minor children shall remain with petitioner No,2/wife and petitioner No.1/husband shall have visitation rights of minor children as per their mutual consent. Both the parties shall be bound by terms and conditions of Ex.P2.....”

5. The Id. Counsel argued that it has received all the money and other benefits from her divorced husband in alimony in pursuance to the impugned court order dated 05.12.2019. It was argued that as evident from the said order, there were various MOUs between the assessee and her estranged husband from filing of divorce petition and that the court order dated 05.12.2019 was merely a culmination of all the understanding and arrangements.

6. Upon careful consideration of the facts of the case and the documents produced by the assessee, we are of the considered view that there is a apparent linkage between the cash deposit in assessee's bank account and the alimony received from her estranged husband in pursuance to the impugned court order dated 05.12.2019. To the extent, the Id. Lower authorities have not been able to properly appreciate the facts of the present case. Accordingly, we set-aside the orders of the lower authorities and direct the Id. AO to delete the impugned additions of Rs.4.54 Crores made in the hands of the assessee on account of unexplained cash deposit made in the demonetization period. Accordingly, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 21st January, 2026.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER
Dated: 21.01.2026

Sd/-
[AMITABH SHUKLA]
ACCOUNTANT MEMBER

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,