

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.922/Ind/2024
Assessment Year:2017-18

Sheo Pujan Pandey, C/o Anant Chopra & Company, 59, Stadium Market, Ratlam	<u>बनाम/</u> Vs.	DCIT Ratlam
(Assessee/Appellant)		(Revenue/Respondent)
PAN: ABBPP6007E		
Assessee by	Shri Soumya Bumb, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	24.03.2026	
Date of Pronouncement	27.03.2026	

आदेश / O R D E R

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

Feeling aggrieved by order of first appeal dated 30.10.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 27.12.2019 passed by learned ACIT/DCIT, Ratlam ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on the grounds as mentioned in Form No. 36 (Appeal Memo).

2. The background facts leading to present appeal are such that the assessee-individual filed his return of income of AY 2017-18 declaring a total income of Rs. 55,87,150/-. The case was selected for scrutiny and the Ld. AO issued notices u/s 143(2)/142(1). Ultimately, the AO passed assessment-order u/s 143(3) after making an addition of Rs. 11,62,000/- u/s 69A treating the cash deposit of Rs. 11,62,000/- made by assessee in HDFC Bank A/c No. 15751000021566 on 11.08.2016 (during demonetization period) as unexplained money u/s 69A. Aggrieved, the assessee carried matter in first-appeal but did not get any success. Now, the assessee has come in next appeal before ITAT.

3. The sole issue involved in present appeal is the addition of Rs. 11,62,000/- made by Ld. AO and upheld by Ld. CIT(A).

4. We have heard learned Representatives of both sides and considered their submissions, the orders of lower authorities and documents filed by assessee in Paper-Book.

5. Ld. AR for assessee pointed out certain infirmities in the adjudication made by lower-authorities, as under:

(i) Firstly, he carried us to following para of assessment-order:

"5. During the course of assessment proceedings, it is noticed that the assessee has deposited cash amounting to Rs. 11,62,000/- as per details given below:-

<i>Name of the Bank</i>	<i>Account number</i>	<i>Date of cash deposit</i>	<i>Amount of cash deposit</i>
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HDFC Bank Sec. 104, Noida	15751000021566	11/08/2016	Rs.11,62,000/-
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In view of the above aspects, it is clear that the assessee has deposited cash at Rs. 11,62,000/- in his bank account. However, the assessee has not made any compliance with respect to the said cash deposits in his bank account. Therefore, a show cause notice was also issued on 24/12/2019, fixing the case for filing of online written submission on or before 26/12/2019 vide which it has been asked to the assessee to explain the source of cash deposits in his bank account and also requested to explain as to why the said cash deposits should not be treated as unexplained money and why not added to the total income of the assessee. However, the assessee has not availed any opportunities of being heard as well as failed to comply with the earlier notices."

Referring to above, he demonstrated that the AO issued show-cause notice on 24.12.2019 asking assessee to explain the source of impugned cash deposit in bank a/c. The AO allowed time for reply upto 26.12.2019. However, there was a holiday on 25.12.2019 on account of chrisms. Thereafter, the AO passed *ex-parte* order on 27.12.2019. Thus, the AO has passed *ex-parte* assessment-order giving a very short time, in fact no time, to assessee rendering the assessee unable to make any submission.

- (ii) Secondly, he carried us to the order of first-appeal passed by Ld. CIT(A) and demonstrated that the assessee made a vehement submission to Ld. CIT(A) explaining the source of deposit. The submission made by assessee is re-produced by Ld. CIT(A) on Page 12 of impugned order [Point No. 16 & 17] according to which a cash withdrawal of Rs. 19,00,000/- made from HDFC Bank A/c on

07.03.2014 was utilised for making impugned deposit of Rs. 11,62,000/-. Ld. AR referred following documentary evidences filed in Paper-Book at Pages 2-28 in support of this submission made by assessee, namely (i) Bank's confirmatory letter dated 28.02.2020 of cash withdrawal of Rs. 19,00,000/- having been made, (ii) Copy of cheque used for making cash withdrawal, (iii) A/c statement of Joint Bank A/c No. 50100023903997 from which cash withdrawal was made, (iv) A/c statement of SB A/c No. 15751000021566 in which the deposit of Rs. 11,62,000/- was made. He submitted that all these documents were filed to Ld. CIT(A) whereupon the CIT(A) also sought remand report from AO. However, the remand report called by CIT(A) or submitted by AO was for the period 01.04.2016 to 10.08.2016 [Para 6.3 of impugned order] whereas the assessee made cash withdrawal on 07.03.2014. He submitted that in subsequent paras 6.3.1 to 6.3.4 of impugned order, the CIT(A) has rejected the assessee's claim of utilization of cash withdrawal made on 07.03.2014 on his self-made reasoning which is also wrong.

6. Having submitted thus, Ld. AR narrated that the documents of assessee clearly show that there was a cash withdrawal of Rs. 19,00,000/- on 07.03.2014 from joint HDFC Bank A/c No. 50100023903997 of assessee and his wife (Smt. Shamlia Shivpujan Pandey). The unutilized portion of such withdrawal available with assessee, was utilized for making impugned deposit of Rs. 11,62,000/- in HDFC Bank A/c No. 15751000021566. Ld. AR

carried us through entries of deposits and withdrawals in bank a/cs from 07.03.2014 to 08.11.2016 in an attempt to demonstrate that there were only three entries of cash deposits of Rs. 1,30,000/- on 25.03.2014, 50,000/- on 04.06.2014, 27,300/- on 03.12.2014 during this period. Therefore, even if the amounts of these three entries of cash deposits are excluded from Rs. 19,00,000/-, the remaining cash available with assessee was more than enough for making re-deposit of Rs. 11,62,000/- on 08.11.2016. He submitted that the time-gap between withdrawal and re-deposit was about 2 years and 8 months which is not abnormal. He relied upon following decisions wherein the additions made by assessing authorities in similar situations have been deleted:

- (i) ITAT, Delhi in ITO Vs. Mrs. Deepali Sehgal, ITA No. 5660/Del/2012, order dated 05.09.2014
- (ii) ITAT, Chennai in Ganapathy Paneerselvam Vs. The Income-tax Officer, ITA No. 609/Chny/2025, order dated 27.06.2025
- (iii) Hon'ble Kerala High Court in Commissioner of Income-tax Vs. K. Sreedharan (1993) 201 ITR 1010 (Ker)

7. With these submissions, Ld. AR prayed to delete the addition made by AO. Alternatively, he agreed that the bench may remand this case to AO for a fresh adjudication with suitable directions.

8. Per contra, the Ld. DR for revenue requested to turn down the Ld. AR's request to delete the addition. He, however, agreed that he would have no objection against remanding this case to AO.

9. We have given our thoughtful consideration to rival submissions and perused the material available on record. It is observed that the Ld. AO has made the impugned addition of Rs. 11,62,000/- u/s 69A primarily on account of non-compliance by the assessee in the course of assessment proceedings. From the extract of assessment-order reproduced hereinabove, it is evident that the show-cause notice was issued on 24.12.2019 fixing compliance on 26.12.2019. Considering that 25.12.2019 was a public holiday on account of Christmas, the effective time available with the assessee was grossly inadequate. The Ld. AO proceeded to pass the assessment-order on 27.12.2019 ex-parte. In our considered view, such a truncated opportunity cannot be regarded as a reasonable and effective opportunity of being heard, thereby resulting in violation of principles of natural justice.

10. Further, it is also noticed that the assessee had furnished detailed submissions before Ld. CIT(A) explaining the source of impugned cash deposit, supported by documentary evidences including bank statements. The Ld. CIT(A) had also called for a remand report from the AO; however, the remand verification was confined only to the period 01.04.2016 to 10.08.2016 whereas the core claim of the assessee relates to cash withdrawal made on 07.03.2014. Thus, the verification carried out during remand proceedings does not address the primary explanation of the assessee. Moreover, the rejection of assessee's claim by Ld. CIT(A) appears to

be based on presumptions without bringing any cogent material on record to disprove the evidences furnished by the assessee.

11. Therefore, the claim of assessee i.e. re-deposit from earlier cash withdrawal, requires to be properly investigated by AO. Accordingly, as per consensus made by learned Representatives of both sides, we are inclined to remand this matter to the file of AO for a fresh adjudication. The AO shall give opportunities of hearing to assessee and shall consider evidences and submissions of assessee judiciously and in the light of decisions as narrated by Ld. AR without being influenced by earlier orders of lower authorities. The assessee is also directed to extend full co-operation to AO without seeking unnecessary adjournments. Ordered accordingly.

12. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 27/03/2026
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Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 27/03/2026

Patel/Sr. PS

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

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore p