

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri TR Senthil Kumar, Judicial Member**

**ITA No. 1121/Ahd/2019
Assessment Year 2016-17**

Kalubhai Ranchhodbhai Dhakecha A-22, Krishna Nagar Society, Opp. India Colony Road, Bapunagar, Ahmedabad380024 PAN: AELPD7626L (Appellant)	Vs	The ITO, Ward-5(3)(3), Ahmedabad (Respondent)
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**Appellant by : Shri Hardik Vora, A.R.
Respondent by : Shri Alpesh Parmar, Sr.D.R.**

Date of hearing : 07-04-2022
Date of pronouncement : 22-06-2022

ORDER

PER : ANNAPURNA GUPTA, ACCOUNTANT MEMBER:-

The present appeal has been filed by the Assessee against the order passed by the Commissioner of Income Tax (Appeals)-5, Ahmedabad, (in short referred to as CIT(A)), dated 28-05-2019, u/s. 250(6) of the Income Tax Act, 1961(hereinafter referred to as the “Act”) pertaining to Assessment Year (A.Y) 2016-17.

2. The solitary issue in the present appeal relates to addition made to the income of the assessee on account of unexplained cash deposited in

bank amounting to Rs. 6,34,000/-. The grounds raised by the assessee reads as under:

- 1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in confirming addition u/s 68 of the Act amounting to Rs. 6,34,000/-.*
- 2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in confirming addition u/s 68 of the Act without rebutting detailed submission made before it.*
- 3. It is therefore prayed that the above addition/disallowance made by the assessing officer may please be deleted.*

2.1 As transpires from the orders of the authorities below, the addition related to cash deposited in the Vijaya Bank account of the assessee which totalled Rs 10,49,000/- out of which 6,34,000/- was treated as unexplained by the Assessing Officer (AO) and addition made of the same to the income of the assessee, which in turn was upheld by the Ld. CIT(A).

3. We have gone through the contents of the orders of the authorities below and have heard both the parties also. We have noted that the assessee had explained the source of cash deposited by filing cash book both of the impugned year and of the preceding year also. The opening balance of cash in the impugned year was Rs. 9,06,927/- which was explained to include 4,03,585/- out of agricultural income of the previous year and 2,78,391/- out of cash withdrawn from bank in the preceding year out of HDFC personal loan/car loan. The revenue authorities have not disputed the opening balance of Rs. 4,03,585/- out of agricultural income of the preceding year. As for the balance of Rs. 2,78,391/- the Revenue has

doubted the same for the reason that it was purportedly explained as withdrawn from a car loan taken while the fact of the matter was that the assessee had purchased car so it could not possibly relate to the said withdrawal having been used for redeposited. We have noted that the assessee had clarified this point by demonstrating that the loan was not a car loan but a personal loan taken against car. This fact demonstrated by the assessee has not been controverted by the Revenue. We have also noted that there is no allegation of the Revenue that there was any negative cash balance in the cash book of the assessee nor has the revenue found any infirmity in the transactions reflected in the cash book of the assessee for the year.

4. In view of the above, when the opening balance of cash in hand stood explained and accepted, transactions in cash book of the assessee having not been doubted, it follows therefore that the cash reflected as deposited in the bank account of the assessee stands explained. We cannot fathom as to why the quantum of Rs. 6,34,000/- of cash deposited in the such circumstances could be treated as unexplained.

5. Even the Id. D.R. was unable to clarify the same to us, though he relied on the order of the authorities below. A perusal of these orders also does not bring to light this reason. The findings of the Id. CIT(A), we find ,is to the effect that the assessee could not substantiate with evidence that the opening balance was genuinely available with him and also on account

of the fact that regular cash was withdrawn from the bank account though he had cash in hand at that particular time.

6. A perusal of the assessment order however reveals that there is nothing mentioned in the order that the opening balance was found unsubstantiated. The assessment order only finds a mention of the fact regarding the quantum of opening cash balance 9,06,927/- which included 4,03,585/- agricultural income and 2,78,391/- as cash withdrawn from loan account. As noted above us, there is nothing recorded in the order of the A.O. doubting the opening balance of pertaining to agricultural income of the previous year. As for the balance of Rs. 2,78,391/- as we have noted above, the assessee had cleared the doubt in the mind of the Revenue that the same pertained to withdrawal made from his personal loan account and not from his car loan account. The Ld.CIT(A) 's finding of the opening balance being unsubstantiated, we find, is without any basis at all. Also the fact that the assessee withdrew cash despite having sufficient cash in hand has no impact on the explanation of the cash deposited in the bank account of the assessee.

7. In view of the above, we hold that the impugned addition of Rs. 6,34,000/- on account of cash deposited in the bank account of the assessee remaining unexplained, has been made without any basis at all, while the assessee had duly substantiated the said deposits from his cash book . We therefore direct the deletion of the addition made of cash deposits of Rs. 6,34,000/-

8. In effect appeal of the Assessee is allowed.

Order pronounced in the open court on 22-06-2022

Sd/-
(TR SENTHIL KUMAR)
JUDICIAL MEMBER *True Copy*
Ahmedabad : Dated 22/06/2022

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order