

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 581/Ahd/2023
Assessment Year 2017-18**

Amikrupa Education Trust, Anand PAN: AABTA7043E (Appellant)	Vs	The Income Tax Officer, Ward Exemption, Vadodara (Respondent)
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Assessee by: Shri M.S. Chhajer, A.R.

Revenue by: Shri Purushottam Kumar, Sr. D.R.

Date of hearing : 10-01-2024

Date of pronouncement : 24-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 21-04-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

1.	<i>The order passed by the Ld. CIT (A) is against law, equity & justice.</i>	
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2	<i>The Ld. CIT(A) has erred in upholding the addition U/S 69A of the Act of Rs. 49,80,000/- of cash deposited in bank as unexplained money.</i>	Rs. 40,90,878/-
3.	<i>The Ld. CIT(A) has erred in law and on facts in invoking section 115BBE of the Act when transactions are occurred prior to insertion of provision on statute.</i>	
4.	<i>The appellant Craves liberty to add, amend, alter or modify all or any grounds of appeal before final appeal.</i>	
<i>Total tax effect (see note below)</i>		Rs. 40,90,878/-

3. The assessee trust filed its return of income for assessment year 2017-18 on 07-11-2017 declaring total income at Rs. nil. The case was selected for complete scrutiny and notice u/s. 143(2) was issued on 24-09-2018 and the same was emailed to the assessee. Thereafter, notices u/s. 142(1) of the Income Tax Act, dated 06-05-2019 and 16-10-2019 were issued and emailed to the assessee requiring to submit certain details/information. In response to the notices, the assessee trust submitted the details. The assessee is a public trust and registered u/s. 12AA of the Act dated 26-07-2007. The trust is doing educational activities by running a college in the name of Vadodara Design Academy. During the year under consideration, the source of income of the assessee trust is students fees, consulting fees and interest. In the return of income, the trust has shown gross receipts of Rs. 1,42,83,126/- and has applied income of Rs.

1,73,98,907/- for revenue expenditure towards objects of trust. The Assessing Officer observed that on 01-11-2016 the assessee has shown accumulated cash on hand of Rs. 10,09,134/- thereby showing cash receipt of Rs. 22,04,000/- towards study tour expense of Rs. 18,30,000/- Building Event Fund on 01-11-2016. According to the cash book, total cash on hand as on 01-11-2016 is of Rs. 51,33,134/-. Out of this cash balance on hand, the assessee has shown cash deposit into bank account held with Kotak Mahindra Bank totaling to Rs. 49,80,000/-. The Assessing Officer after taking cognizance of the assessee's submission made addition of Rs. 49,80,000/- u/s. 69A on account of unexplained money.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the study tour fund, Buildthon event fund as well as the cash in hand was properly shown in the books of accounts including the other related cash received by the assessee. During the demonetization period, the assessee was having the cash in hand which was never denied by the Assessing Officer as well as by the CIT(A) and thus deposited all cash on hand in denomination of Rs. 500 and Rs. 100. The ld. A.R. submitted that the Assessing

Officer refused to accept the assessee's contention with respect to the cash deposited during the period 09-11-2016 to 31-12-2016 nearly on the pretext that the same was deposited during the demonetization period and hence was suspicious in nature. The transactions are duly recorded in audit books of accounts of the assessee and thus it cannot be treated as unexplained money u/s. 69A of the Act. The ld. ld. A.R. further submitted that the invocation of section 69A can be done only when assessee has recorded different transactions in books of accounts. Besides this, the Assessing Officer has not rejected the books of the assessee. The ld. A.R. relied upon the decision of Hon'ble Apex Court in case of Parasthuram Potterty Works Ltd. vs. ITO 106 ITR 1 (SC).

6. The ld. D.R. submitted that no bank slip was attached during the submission of the evidence before the Assessing Officer as well as before the CIT(A). Thus, the assessee has not fully disclosed the cash deposits and thus it remains unexplained and therefore section 69A of the Act was properly invoked. The ld. D.R. further submitted that the assessee has not given the details as to fees received/elective income/loan as well as the buildthon fund and study tour fund including the cash book from the bank from 01-04-2016 to 08-11-2016 and the date of cash deposits in bank from 01-04-2016 to 08-

11-2016. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the sides and perused all the relevant materials available on record. There is a delay of 35 days in filing the present appeal for which the assessee has filed the condonation of delay application stating therein the reason for delay. The reason for delay appears to be genuine, hence delay in filing present appeal is condoned. It is pertinent to note that the books of accounts of the assessee trust were never rejected at any point of time by the Assessing Officer. Besides this, the evidences produced by the assessee before the Assessing Officer as well as before the CIT(A) clearly shows that the assessee has received fees from students related to the event as well as study tour including the buildthon event fund. The assessee has given the cash bills from bank from 01-04-2016 to 08-11-2016. Hence, the assessee has given the expenses for the said period. Thus, the assessee has given all the details as to how the assessee has that much cash in hand during the demonetization period. This was never doubted by the Revenue. In fact, the bank statements clearly show including the details given of the students from which the fees and the money has been received. The bank slip cannot be crucial evidence to reject the other direct evidence produced by the assessee before the Assessing Officer. Thus, the Assessing

Officer as well as the CIT(A) was not right in making the addition of cash deposits amounting to Rs. 49,80,000/- in bank account during the demonetization period by invoking section 69A as the assessee has fully explained the cash deposits and thus the same cannot be treated as unexplained money. Thus, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 24-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 24/01/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

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

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद