

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT

**[CONDUCTED THROUGH VIRTUAL COURT]**

**Before: Ms. Suchitra Kamble, Judicial Member  
And Shri Waseem Ahmed, Accountant Member**

**ITA No. 268/Rjt/2022  
Assessment Year 2017-18**

Satishbhai Kadvabhai Sarvaiya, At: Bharudi, Bharudi, Rajkot PAN: GXKPS0874M (Appellant)	Vs	The ITO, Ward-1(2)(3), Rajkot (Respondent)
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**Assessee by: None**  
**Revenue by: Shri K.L. Solanki, Sr. D.R.**

Date of hearing : 11-03-2024  
Date of pronouncement : 15-03-2024

**आदेश/ORDER**

**PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-**

This is an appeal filed against the order dated 07-10-2022 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

“1. The Ld. CIT(A) erred in law as well as on facts in confirming addition made of Rs.10,00,000/-. The same needs cancellation.

2. The Ld. CIT(A) erred in law as well as on facts in confirming addition of Rs. 10,00,000/- made without cogent reason or cogent material brought on records. The same needs cancellation.

3. The Ld. CIT(A) erred in law as well as on facts in confirming addition of Rs. 10,00,000/- made without giving proper opportunity and adequately considering the matter. The same needs cancellation.

4. The Ld. CIT(A) erred in law as well as on facts in confirming addition of Rs.10,00,000/- made on irrelevant consideration. The same needs cancellation.

5. The Ld. CIT(A) erred in law as well as on facts in confirming addition of Rs. 10,00,000/- made on presumption and surmises. The same needs cancellation.

6. Taking into consideration legal, statutory, factual and administrative aspects no addition as made ought to have been confirmed. The same needs cancellation.

7. The Ld. CIT(A) erred in law as well as on facts in not considering that there is error in not giving due deductions while completing assessments. The same needs to be allowed.

8. The Ld. CIT(A) erred in law as well as on facts in not considering that there is error in not giving due exemption while completing assessments. The same needs to be allowed.

9. The Ld. CIT(A) erred in law as well as on facts in not considering that addition is made without considering peak position and making due inquiry while completing assessments. The same needs to be allowed.

10. Without prejudice, the Ld. CIT(A) has erred in confirming the assessment made being illegal, void, bad in law and against statutory provisions, needs annulment.

11. Without prejudice, the Ld. CIT(A) has erred in not considering that the agricultural land belongs to HUF and not to Individual and consequently the deposit of Rs. 10,00,000/- also not pertains to the individual. The assessment needs annulment having made in the status of individual being bad in law needs annulment.

12. Without prejudice, The Ld. CIT(A) erred in not considering that the initiations of the assessment proceeding is itself beyond limitation as prescribe. The same needs to be quashed.

13. Without prejudice, no reasonable opportunity has been given by the Ld. A.O. while completing assessment. The same needs annulment.

14. Without prejudice, there being no legal service of the notice of hearing issued and therefore the assessment needs annulment

15. Without prejudice the LD, CIT(A) has erred in confirming application of rate of tax as applicable U/s 1158BE instead of applying Normal Rate of Tax. The same needs modification.

16. The Ld. CIT(A) has erred in not considering that the Ld. A.O. was not having jurisdiction for making the assessment U/s 144 of the act as such the assessment founded on invalid jurisdiction may kindly be quashed and justice be done.

17. The Ld. CIT(A) has erred in law and on facts in confirming addition U/s 69A r.w.s 115BBE of the Act of Rs. 10,00,000/- made, as alleged uncounted money, which may kindly be deleted and justice be done.

18. The appellant craves leave to add/alter/amend and/or substitute any or all grounds of appeal before the actual hearing takes place.

TOTAL TAX EFFECT

Rs. 12,20,000/-”

3. The assessee is an agriculturist and deposited Rs. 10,00,000/- in cash in his bank account on 11-11-2016 during the demonetization period. No return was filed by the assessee, therefore, notice u/s. 142(1) was issued by the Assessing Officer. As no return was filed even in response to this notice and finally assessment was completed u/s. 144 of the Act thereby making addition of Rs. 10,07,500/- as unexplained money u/s. 69A of the Act.

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

5. At the time of hearing, none appeared on behalf of the assessee but the assessee has filed written submission along with certain details of the agricultural income as well as correspondence with the income tax officer i.e. Assessing Officer vide letter dated 07-07-2017 and 17-07-2017. We are taking up the said written submission filed by the assessee as well as those documents on record and proceedings with the matter.

6. The ld. D.R. submitted that the assessee has not given the details of agricultural produce and has not established the undisclosed cash deposits during the demonetization period

and therefore the Assessing Officer as well as the CIT(A) has rightly confirmed the addition.

7. We have heard the ld. D.R. and perused all the relevant materials available on record. It is pertinent to note that the assessee is having a major source of income from agricultural operation as well as income on sale of milk. Being the agriculturist, he is not maintaining regular books but provisional accounts were maintained and the same was submitted before the CIT(A). The finding of the CIT(A) that the assessee deposited a wholesome of Rs. 10,00,000/- in the bank account on 11-11-2016 in cash is not fully explained appears to be not justified as the assessee in his submissions before the CIT(A) has categorically mentioned the bills for sale of crops and also has given the details of the crops such as groundnut, cotton and cultivating vegetables. The assessee has also given the land revenue record as well as the bank statement including professional accounts for earning agricultural income which was not at all considered by the CIT(A) while confirming the addition to the extent of Rs. 10,00,000/-. Therefore, the addition confirmed by the CIT(A) is not justified as the assessee has explained the details of the earning of the amount which was rightly deposited during the demonetization period. Hence, 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 15-03-2024

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 15/03/2024**

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

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,

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Rajkot