

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'H' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 840/DEL/2021 [A.Y 2017-18]

Smt. Perminder Kaur Matharoo
C/o Shri Kapil Goel, Adv
F- 26/124, Sector 7, Rohini
Delhi

Vs.

The I.T.O
Ward - 44(7)
New Delhi

PAN: ANOPK 8352 J

(Applicant)

(Respondent)

Assessee By : Shri Kapil Goel, Adv

Department By : Shri Sanjai Kumar Yadav, Addl.CIT-DR

Date of Hearing : 09.11.2022

Date of Pronouncement : 15.11.2022

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order dated 26.05.2021 framed by the National Faceless Appeal Centre FAC] pertaining to A.Y. 2017-18.

2. Since Ground No. 1 has not been pressed by the ld. counsel for the assessee, the solitary grievance of the assessee revolves around the addition of Rs. 7,65,000/- sustained by the NFAC against total addition of Rs.11,90,179/-.

3. Briefly stated, the facts of the case are that the assessee filed her return of income on 27.06.2017 declaring income at Rs. 7,92,90/-. The assessee returned rental income and income from other sources. The return of income was selected for scrutiny assessment for scrutiny of cash deposit during demonetization period and, accordingly, the assessee was show caused to furnish explanation regarding cash deposit during demonetization period.

4. In response, the assessee submitted that cash deposit was out of opening cash in hand and cash withdrawals during the year under consideration prior to demonetization.

5. Reply of the assessee was duly considered by the Assessing Officer who was of the opinion that other than the opening cash in hand of Rs. 8,34,821/-, the assessee could not explain satisfactorily the source of cash deposit of Rs.11,90,179/-.

6. The Assessing Officer completed assessment proceedings by accepting the opening cash in hand of Rs. 8,34,821/- and made addition of Rs.11,90,79/- under section 69A r.w.s 115BBE of the Act.

7. The assessee carried the matter before the Id. CIT(A) and once again furnished all the details explaining the source of cash deposit in the bank account.

8. It was once again explained that other than the opening cash in hand of Rs. 8,34,821/-, all other deposits have been made out of cash withdrawals from the bank during the financial year. In support, cash flow statement along with statement of affairs was also filed by the assessee.

9. After considering the facts and submissions, the Id. CIT(A) completely disregarded the findings of the Assessing Officer and gave a different colour to the entire proceedings by stating that the opening cash balance of Rs. 8,34,821/- has not been declared in the return of income filed online.

10. Out of the total cash withdrawals available with the assessee, the Id. CIT(A) deducted monthly expenses at Rs.30,000/- per month and estimated availability of cash as under:

PARTICULARS	AMOUNT [Rs.]
Cash deposited	20,25,000/-
Cash withdrawal	15,20,000/-
Less: Drawings for house expenses	3,60,000/-
Balance remains to be explained	8,65,000/-

11. Giving the benefit of Rs.1 lakh, as opening cash in hand, addition of Rs.7.65 lakhs was confirmed by the Id. CIT(A).

12. Before us, the Id. counsel for the assessee reiterated what has been stated before the lower authorities and once again drew our attention to all the documents filed before the lower authorities containing cash flow statement, cashbook, statement of affairs etc.

13. Per contract, the Id. DR strongly supported the findings of the Id. CIT(A) and read the operative part.

14. We have carefully perused the orders of the authorities below and have given thoughtful consideration to the relevant documentary evidences brought on record in light of Rule 18(6) of ITAT Rules.

15. Cashbook clearly shows the opening balance as on 01.04.2016 at Rs. 8,34,821/- which has been duly verified and accepted by the Assessing Officer. Cash flow statement exhibited at page 4 of the Paper Book clearly explains the cash deposit in the impugned bank account. Exhibit 13 is the statement of affairs as on 31.03.2017.

16. We fail to understand as to when availability of opening cash in hand amounting to Rs. 8,34,821/- has been verified and accepted by the Assessing Officer, then, why the ld. CIT(A) estimated the same at Rs.1 lakh. Further, when cash withdrawals have been duly reflected in the cash book, vis a vis, bank statement for the FY under consideration, why the same was not accepted by the ld. CIT(A) when no defect has been pointed out in cash books, cash flow statement and statement of affairs filed by the assessee?

17. In our considered opinion, once cash flow statement is not controverted by the Assessing Officer as well as the Id. CIT[A], when it was specifically submitted that the same is based on the entries made in the cashbook, then the source of cash deposit in the bank account cannot be discarded by the authorities below.

18. Our view is fortified by the decision of the Hon'ble High Court of Delhi in the case of Omni info in ITA No. 364/2016 order dated 29.07.2016.

19. Considering the facts of the case in totality, we do not find any merit in the addition sustained by the Id. CITA. We, accordingly, direct the Assessing Officer to delete the impugned addition of Rs.7,65,000/-.

20. In the result, the appeal of the assessee in ITA No. 840/DEL/2021 is partly allowed.

The order is pronounced in the open court on 15.11.2022.

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 15th November, 2022.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	