

**। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 462/Kol/2022  
Assessment Year: 2017-18**

<b>Sh. Joginder Singh Johal Through legal heir Amarjit Kaur Johal #429, Second Floor Sector 35-A Chandigarh - 160035 PAN : AFIPJ 2079 P</b>	<b>Vs</b>	<b>Income Tax Officer, Ward 61(1), Kolkata</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
Assessee by :	Shri Sushil Kumar Pransukhka, FCA	
Revenue by :	Shri P.P. Barman, Addl. CIT	

सुनवाई की तारीख/Date of Hearing : 21/12/2022  
घोषणा की तारीख/Date of Pronouncement : 24/01/2023

**आदेश/O R D E R**

**Per Rajesh Kumar, Accountant Member:**

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the "Id. CIT") dt. 20/06/2022, passed u/s 250 of the Income Tax Act, 1961 ("the Act'), for Assessment Year 2017-18.

2. The assessee has raised various grounds of appeal on jurisdictional issue as well as on merits. However, at the time of hearing the assessee pressed only Ground No. 3 and 4, which are reproduced as under:-

*"3. That on facts, circumstances and legal position of the case, the Worthy CIT(A), NFAC has erred in confirming the impugned addition of Rs. 23,17,541/ by holding that cash deposit of that amount in bank accounts is from unexplained sources.*

*4. That on facts, circumstances and legal position of the case, the Worthy CIT(A), NFAC has erred in not allowing the ground on non-allowance of deduction of Rs. 2,10,000/- under Chapter VI A claimed by the assessee."*

3. The issue raised in Ground No. 3 is against the confirmation of addition of Rs.23,17,541/- by the ld. CIT(A) as made by the Assessing Officer on account of cash deposits into the bank account from unexplained sources being cash deposited into the bank account by the assessee during demonetisation period.

3.1. The facts in brief are that the ITS data revealed that during the financial year 2016-17, the assessee has deposited cash to the tune of Rs.29,13,398/- into two bank accounts, namely, HDFC Bank Ltd. A/C No. 50100011637756 , Sector 46, Chandigarh Rs. Rs.2,50,000/- and Union Bank of India , Dhanbad A/C No. 469401010201028 of Rs.26,63,398/- , during the demonetisation period commencing from 09/11/2016 to 30/12/2016. Accordingly, a notice u/s 142(1)(i) of the Act was issued on 30/11/2017 and duly served upon the assessee. The assessee did not file any return of income, within the stipulated period and thus, the notice remained non-complied with. The cases has been taken thereafter for completion of assessment u/s 144 of the Act as per the direction contained in SOP vide F.No. 225/363/2017-ITA.II dated 05/03/2019 of CBDT. Thereafter notice was issued u/s 133(6) of the Act to Union Bank of India, Dhanbad Branch which was replied by the said bank and his personal PAN was linked to the said account. It was found on the basis of the said reply that Rs.26,63,398/- were deposited during demonitization period in the account belonging to M/s. Guru Nanak College, Dhanbad and Shri Joginder Singh Johal, the assessee, was the then President of the college and his personal PAN was linked to the account of college. The said information was passed on the ACIT/DCIT, Circle-1(1), Dhanbad on 04/03/2019 by the DCIT, Cir-59, Kolkata vide letter No. DCIT, Cir.59/Kol/OCM/2018-19/154 dt. 04/03/2019, for further course of action at their end. Subsequently, the

ACIT, Circle-1(1), Dhanbad, vide his letter in F.No. ACIT/Cir-1(1)/Transfer/DHN/18-19 dtd. 11/03/2019, passed on the information to the ITO, Exemption Ward, Dhanbad as the later was actually the jurisdictional A.O. Thereafter, statutory notices were duly issued and served upon the assessee. However, no reply was filed in response to the said notices. Thereafter again notice u/s 142(1) of the Act was issued on 23/08/2019 to furnish reply on 28/08/2019. Thereafter, again on 05/09/2019, the communication was sent to the assessee asking to furnish the documents/accounts as mentioned in the earlier notices positively by 12/09/2019 and the assessee on 19/09/2019 uploaded submissions along with some documents. Similarly, the information was called for in respect of account maintained with the HDFC Bank and the assessee filed the reply in compliance. The assessee submitted before the Assessing Officer that he has received these cash payments upon sale of property which were deposited into the bank accounts. The reply of the assessee did not find favour with the Assessing Officer and finally an addition of Rs.23,17,541/- was made u/s 69A of the Act on account of cash deposits during demonetisation period which could not be explained by the assessee, in the assessment framed u/s 144 of the Act dated 28.12.2019.

3.2. In the appellate proceedings, the Id. CIT(A) simply affirmed the order of the Assessing Officer on the ground that the assessee could not bring on record any cogent or convincing evidences to controvert the findings of the Assessing Officer and thus justified the addition made on account of cash deposited during demonitisation.

4. After hearing rival contentions and perusing the material on record including the Apartment Buyers Agreement dated 3.3.2011 and Agreement to sell dated 21.05.2018 for flat as placed before us by way of filing the same in the paper book, we observe that the assessee has sold a property and cash which was stated to be deposited in the bank accounts of the assessee was out of advance received against the sale consideration though, the sale deed was not finally executed during the year. We also note that all these evidences were also furnished before the authorities below, however, they failed to appreciate the fact that the assessee received under the agreement to sell dated 21.05.2018 whereby the assessee has agreed to sell the flat to Shri Bhupinder Singh Liddar and Smt Kulwant Kaur Liddar and received cash as stated in clause 1(3) at page no. 2 of the agreement to sell dated 21.05.2018.

5. We have perused the agreement of sale and find that Smt. Amarjit Kaur Johal (wife of Shri Joginder Singh Johal) and Shri Joginder Singh Johal, son of Late S. Darbara Singh, resident of Flat No. 92, D-Block, Multitech Tower, Sector 91, S.A.S. Nagar (Mohali) were the sellers and Bhupinder Singh Liddar, son of Sohan Singh Liddar and Smt. Kaulwant Kaur Lidder, resident of High Cables Hotlines Horpenden Hartford Share U.K., zip ak15-2dy, United Kingdom, was the purchasers. We have gone through the contents of the agreement to sell and found that the assessee has received consideration on various dates by cheques as well as in cash which has been substantiated and testified with the said agreement to sell. Under these circumstances, we are not in a position to subscribe to the views of both the lower authorities as there is sufficient source of cash deposits into the bank accounts of the assessee. Besides, the authorities below has failed to make

any further enquiries and bring on records any other materials to prove the source of cash deposits from any other source. Consequently, we set aside the order of the Id. CIT(A) and direct the Assessing Officer to delete the addition of Rs.23,17,541/-.The ground no.3 is consequently allowed.

6. The issue raised in the ground no. 4 is against the not allowing the deduction of Rs. 2,10,000/-under Chapter VIA by Id CIT(A).

7. After hearing the rival parties and perusing the materials on records ,we are of the view that the assessee is entitled to deduction under Chapter VIA of the Act but subject to verification by the AO. Accordingly the AO is directed to examine the issue and allow the deduction of Rs. 2,10,000/- to the assessee. The ground no. 4 is also allowed in terms of our aforesaid direction.

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

**Order pronounced in the Court on 24<sup>th</sup> January, 2023 at Kolkata.**

*Sd/*

**(Sonjoy Sarma)  
Judicial Member**

Kolkata, Dated 24/01/2023

*SC SpB*

*Sd/-*

**(Rajesh Kumar)  
Accountant Member**

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata