

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.687/Ind/2025
Assessment Year:2016-17

| | | |
|---|----------------------------|----------------------|
| Pradeep Patni, A-247, new Minal Residency, JK Road, Bhopal | <u>बनाम/</u> Vs. | ITO 5(2) Bhopal |
| (Assessee/Appellant) | | (Revenue/Respondent) |
| PAN: ABKPP1394B | | |
| Assessee by | Shri S.L. Poddar, AR | |
| Revenue by | Shri Ashish Porwal, Sr. DR | |
| Date of Hearing | 08.01.2026 | |
| Date of Pronouncement | 16.01.2026 | |

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 07.08.2025 and bearing DIN: ITBA/NFAC/S/250/2025-26/1079388329(1) passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 08.12.2018 passed by learned ITO-5(2), Bhopal ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2016-17, the assessee has filed this appeal on following grounds:

"Ground 1. That the addition of Rs. 1,03,00,000/- made by the learned AO to the total income of the appellant u/s 69A, and subsequently upheld by the honourable CIT(A), be held to be contrary to the facts, bad and unjustified. The addition made be quashed and deleted.

Ground 2. In the alternative and without prejudice to the ground stated above the addition made by the learned AO, and subsequently upheld by the honourable CIT(A), be held to be high and unreasonable and be suitably reduced.

Ground 3. The appellant craves leave to add, amend OR alter any Ground of Appeal before or during the course of appellate proceedings."

2. Although the Ld. DR for the Revenue had filed an application seeking adjournment, however, during the course of hearing, when the Ld. AR for the assessee submitted that he had travelled from Jaipur to Indore and that the appeal involved limited facts and issues for adjudication, the Ld. DR for revenue fairly agreed not to press the adjournment request and consented to proceed with the hearing. Accordingly, the hearing was proceeded.

3. The background facts leading to present appeal are such that the assessee-individual filed his return of income of AY 2016-17 declaring a total income of Rs. 6,50,600/- from business of fabrication work; income from partnership firm "M/s Hindustan Sales Industrial Corporation"; capital gain and other sources. The case of assessee was selected under scrutiny and the AO issued statutory notices u/s 143(2)/142(1) which were complied by assessee. Finally, the AO passed assessment-order u/s 143(3) after making an addition of Rs. 1,03,00,000/- on account of unexplained deposits in bank u/s 69A and thereby assessing total income at Rs. 1,09,50,600/-. Aggrieved, the assessee carried matter in first-appeal but did not get any success. Now, the assessee has come before us in next appeal assailing the orders of lower-authorities.

4. We have heard learned Representatives of both sides and carefully perused the case record including the orders of lower-authorities.

5. The solitary grievance of assessee is that the lower authorities are not justified in making/upholding the addition of Rs. 1,03,00,000/- u/s 69A treating the deposits in bank as unexplained money.

6. At first, we re-produce the relevant portion of assessment-order passed by AO:

"3. As the reply furnished by the assessee was not satisfactory, another letter dated 30/11/2018 was issued giving a final opportunity to give credible evidence in respect of the cash deposits amounting to Rs 1,03,00,000 made in his SBI saving bank account bearing No 30172963596 with documentary evidence on or before 03/12/2018 in e-proceeding portal which was not complied. On going through the bank statement, it has been observed that the assessee has deposited cash on various dates as under:

| A/c no.30172963596 | | |
|---------------------------|-------------|--------------------|
| Bank name | Date | Amount |
| SBI | 09.04.2015 | 22,50,000 |
| SBI | 10.04.2015 | 71,50,000 |
| SBI | 21.03.2016 | 8,00,000 |
| SBI | 30.03.2016 | 1,00,000 |
| Total | | 1,03,00,000 |

The assessee has stated that the cash deposits in saving bank account are from cash withdrawal which were later deposited. However, on perusal of the entire statement no such lump sum withdrawal has been seen which signifies that the reply was made in a vague manner to cover the undisclosed income of the assessee for the relevant year. Further, the assessee has also not furnished any cash flow statement.

4. In order to find out whether the assessee is the owner of any money in terms of section 69A of the said Act, the principle of Common Law Jurisprudence in section 110 of the Evidence Act, 1872 can be applied. Onus of proving source of deposit primarily rests on persons in whose names deposit appears in various banks. Since assessee had failed to show that amount in question did not represent his income, department was justified in

treating same as assessee's income under section 69A, CIT v. K. Chinnathamban [2007] 162 Taxman 459 (SC). Since entire amount was deposited in assessee's accounts in lump sum manner, and he was not prepared to disclose source of its receipt satisfactorily, it could be presumed that assessee was owner of entire money, and he having failed to prove that money did not belong to him, authorities were right in assessing him under section 69A - M. Sundaramv. Asstt. CIT [2007] 161 Taxman 54 (Mad.)

5. Assessee must prove the source of receipt - The law is well settled that the onus of proving the source of a sum of money found to have been received by an assessee is on him. If he disputes the liability for tax, it is for him to show either that the receipt was not income or that if it was, it was exempted from taxation under the provisions of the Act. In the absence of such proof, the Revenue is entitled to treat it as taxable income. To put it differently where the nature and source of a receipt, whether it be of money or of other property, cannot be satisfactorily explained by the assessee, it is open to the Revenue to hold that it is the income of the assessee and no further burden lies on the Revenue to show that income is from any particular source- Kale Khan Mohammad Hanif v. CIT [1963] 50 ITR 1 (SC).

6. From the above, it can be seen that the assessee is the owner of the cash deposited in bank and the source of such deposits has to be explained by the assessee. As the assessee could not adduce the source of cash deposits with documentary evidence and also that no proper explanation has been offered even after giving an opportunity vide letter dated 30/11/2018, therefore, cash deposits of Rs. 1,03,00,000/- is the undisclosed income of the assessee and the same is added as unexplained money u/s 69A in the hands of the assessee on which no tax has been offered. As per section 69A - Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing] Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.] I am satisfied that the assessee has willfully concealed the particulars of income to the extent of Rs. 1,03,00,000/-, therefore, penalty proceedings u/s 271(1)(c) is hereby initiated separately."

[emphasis supplied]

7. Now, we re-produce the relevant portion of order of first appeal passed by CIT(A):

"5. The grounds of appeal no. 1 & 2 are against action of the AO in making addition of Rs. 1,03,00,000/- made to the total income of the appellant u/s 69A be held to be contrary to the facts, bad and unjustified. The addition made be quashed and deleted.

5.1 I have carefully considered the assessment order, the grounds of appeal, and the submissions of the appellant. The appellant's main contention is that these deposits were funds from earlier cash withdrawals. The appellant has provided a list of withdrawals from two different bank accounts and a list of corresponding cash deposits.

The appellant claims that cash withdrawals of Rs. 2,78,23,000/- were made from the SBBJ account. Out of this, Rs. 94,00,000/- was deposited into the SBI account. The appellant also states that the cash withdrawals of Rs. 11,95,000/- from the SBI account, out of which Rs. 9,00,000/- was deposited back into the same account. It is pertinent to mention here that the appellant failed to provide cash flow statement to link the specific withdrawals to the specific deposits, particularly the large deposits. The mere claim that withdrawals were made and subsequently deposited does not prove the source of deposit.

*Further, the appellant's reliance on the share of profit from the partnership firm as the ultimate source of funds is also not a direct explanation for the cash deposits. While the funds from the firm may have been the initial source of the withdrawals, the link between the cash withdrawals and the subsequent cash deposits remains unsubstantiated. The Hon'ble Madras High Court in *M. Sundaram v. Asstt. CIT* [2007] 161 Taxman 54 (Mad.) held that where the assessee fails to disclose the source of deposit, it can be presumed that the assessee is the owner of the money and the authorities are justified in assessing it under section 69A. The Hon'ble Supreme Court in *CIT v. K. Chinnathamban* [2007] 162 Taxman 459 (SC) has also affirmed the principle that the onus of proving the source of a deposit rests on the person in whose name the deposit appears. Further, the explanation provided during the assessment and the appeal proceedings is a generalized statement that the deposits were from withdrawals, without a proper reconciliation or linkage.*

5.2 Section 69A of the Act deals with Money etc. owned by the appellant and found in possession including in the bank accounts of the appellant which remained unexplained.

Section 69A - Unexplained Money

"Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of

the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]"

5.2.1 In the present case, the appellant had deposited Cash/credit in his saving bank accounts, which is treated as unexplained money. The appellant found to be the owner of the Money appearing in bank accounts. The appellant was found owner of the Money but has not offered any acceptable and cogent explanation regarding the source of such Money found in its bank accounts.

5.2.2 The scheme of Section 69A of the Income-tax Act, 1961, would show that in cases where the nature and source of acquisition of money, bullion, etc., owned by the assessee is not explained at all, or not satisfactorily explained, then, the value of such investments and money or value of articles not recorded in the books of accounts may be deemed to be the income of such assessee. The provisions of section 69A of the Act treat unexplained money, bullion, etc., as deemed income where the nature and source of investment, acquisition as the case may be, have not been explained or satisfactorily explained. Therefore, in these cases, the source not being known, such deemed income covered under the provisions of Section 69A of the Act in view of the scheme of those provisions. For application of Section 69A of the Act, two conditions are required to be satisfied. They are:

- (i) Investment/expenditure is not recorded in the books of account of assessee;*
- (ii) The nature and source of acquisition of assets or expenditure are not explained or not explained satisfactorily;*

The expression "nature and source" used in this section should be understood to mean requirement of identification of source and its genuineness. To explain "Nature" it would require the assessee to explain what is description of investment or expenditure, period and the manner in which it was done. To explain the source, it would require the assessee to explain the corpus or fund from where investment or expenditure has been met.

5.2.3 In the present case, the nature and source of such Deposits made in the bank account was not at all explained, leave alone satisfactory explanation. Further, for invoking deeming provisions under Section 69A of the act, there should be clearly identifiable asset or unexplained Money. It is amply proved beyond doubt that the appellant has deposited Cash/credit appearing in bank accounts which are unexplained, and the Cash deposits/credit in his saving bank accounts are identifiable unexplained assets.

The limbs of Section 69A of the Act stands qualified in the case of the assessee, i.e.

. the assessee was found to be owner of the Money

its nature and source is not identifiable.

5.2.4 The Hon'ble Supreme Court in the case of *Chuharmal Vs CIT (1988) 172 ITR 250* while affirming the view of the Madhya Pradesh High Court has held that 'the expression 'INCOME' as used in Section 69A of the Act, 1961 had a wide meaning which meant anything which came in or resulted in gain and on this basis, concluded that the assessee had income which he had invested in purchasing article and he could be held to be owner and the value could be deemed to be his income by virtue of Section 69A of the Act.'

Following the ratio of the judgement of Hon'ble Supreme Court, in the instant case, the appellant deposited Cash in his bank account which resulted in gain and on the basis can be concluded that the appellant had income to the extent of cash deposit made during the year under consideration appearing in bank accounts and it could be held to be the owner and the Money at its credit could be deemed to be its income by virtue of Section 69A of the Act. Hence, in the facts of this case a legitimate inference can be drawn that the appellant had income which he had deposited in Bank accounts and, as such that Income was subject to tax.

5.2.5 Further, the Hon'ble Supreme Court in the case of *Smt Srilekha Banerjee and others Vs CIT, Bihar & Orissa*, reported in 1964 AIR 697, dated 27/03/1963, the Hon'ble Court held that the source of money not having been satisfactorily proved, the Department was justified in holding it to be assessable income of the assessee from some undisclosed source. The relevant finding of the Hon'ble Apex Court is as under:-

"The fact of the case are that the assessee had encashed 51 high denomination notes of Rs.1,000/- each in January, 1946. The assessee's explanation in his application for encashment of the notes was that he was a colliery proprietor and contractor, that for conducting the business and for payment to labour which came to about Rs.30,000/- to 40,000/- every week he had to keep large sums of money to meet emergency and that the sum of Rs. 50,000/- realised by encashment of the notes was neither profit nor part of profit but was floating capital for the purpose of conducting business. The Income-tax Officer did not accept this explanation and treated this amount as profit from some undisclosed source and assessed it as assessable income. In *Manindranath Das v. Commissioner of Income Tax, Bihar & Orissa*, the tax-payer had encashed Notes of the value of Rs. 28,600, which he contended were his accumulated savings. His explanation was accepted in respect of Rs. 15,000, because 15 notes could be traced to a bank, but was rejected in respect of the balance. The Patna High Court pointed out that if an assessee received an amount in the year of account, it was for him to show that the amount so received did not bear the character of income, and the tax-payer in the case had failed to prove this fact in respect of the remaining notes. The Hon'ble Supreme Court has held that 'The cases involving the encashment of high denomination notes are quite numerous. In some of them the explanation tendered by the tax-payer has been accepted and in some

it has been rejected. Where the assessee was unable to prove that in his normal business or otherwise, he was possessed of so much cash, it was held that the assessee started under a cloud and must dispel that cloud to the reasonable satisfaction of the assessing authorities, and that if he did not, then, the Department was free to reject his explanation and to hold that the amount represented income from some undisclosed source."

The Hon'ble Supreme Court further held in the case of Smt Srilekha Banerjee and others (supra) that 'the Department was justified in holding that Rs. 51,000/- was assessable income of the assessee from some undisclosed source. It was not correct that the assessee was not required to prove anything and that the burden was entirely upon the department to prove that the amount received from the encashment of high denomination notes was income. The correct position is as follows. If there is an entry which shows the receipt of a sum or conversion of the notes by the assessee by himself, it is necessary for the assessee to establish, if asked, what the source of that money was and to prove that it did not bear the nature of income. The department is not at this stage required to prove anything. The fact that there was receipt of money or conversion of notes is itself prima facie evidence against the assessee on which the Department can proceed in absence of good explanation.'

5.2.6 Therefore, in case where appellant deposited Cash/Credit in its bank accounts during the year under consideration, but the sources were neither explained nor such money offered for taxation, the onus is on the appellant to prove that the Cash deposits made did not bear the character of income. In this case, the appellant had failed to prove this fact. Further, by relying upon the decision of Hon'ble Supreme Court in the cases cited above that there was ample evidence that Cash was deposited in bank accounts, which is prima facie evidence against the appellant that the deposits are undisclosed income on which the Department can proceed in absence of good explanation.

5.3 In this regard, reliance is placed on the decision of the Hon'ble Delhi High Court in the case of Sunil Jain vs. Income Tax Department [2022] 142 taxmann.com 507 (Delhi) dated 22.07.2022, wherein the Hon'ble Tribunal has upheld the similar addition made by the AO and decided the appeal in favour of the revenue. The head note of the decision is reproduced as under:-

"Section 69A, read with section 148, of the Income-tax Act, 1961 Unexplained moneys (Reassessment) Assessment year 2017-18 - Assessee filed his return of income showing an income of certain amount Case of assessee was selected for limited scrutiny raising queries regarding cash deposit of Rs. 28.75 lakhs made by assessee during demonetisation period in 'C' bank Further, an assessment order was passed making an addition of Rs. 28.75 lakhs to returned income of assessee Assessee preferred an appeal against same During pendency of appeal, revenue issued a reassessment notice on ground that assessee had failed to satisfactorily explain source of fund for cash deposit of Rs. 12.50 lakhs made by assessee in 'PN' bank - It was

noted that cash deposit of Rs. 12.50 lakhs was not adjudicated upon during original scrutiny proceedings assessee had only mentioned detail of cash deposited in 'C' bank In income-tax return, account and had not mentioned cash deposits in any other bank accounts - Whether, on facts, impugned reopening notice issued against assessee was justified - Held, yes [Paras 13, 15, 16 and 19] [In favour of revenue]"

5.3.1 Reliance is further placed on the decision of the Hon'ble ITAT, Raipur Bench in the case of Adim Jati Seva Sahkari Samiti Maryaditvs.Income-tax Officer [2024] 159 taxmann.com 8 (Raipur - Trib.) dated 18.09.2023, wherein the Hon'ble Tribunal has upheld the similar addition made by the AO and decided the appeal in favour of the revenue. The head note of the decision is reproduced as under:-

"Section 69A of the Income-tax Act, 1961-Unexplained moneys (Bank deposit) - Assessment year 2017-18 - During demonetization period, assessee-society deposited certain sum in its bank account Since assessee didn't respond adequately to several notices issued by AO, said cash deposit was treated as unexplained income under section 69A On appeal, Commissioner (Appeals) had afforded sufficient opportunities to assessee to put up its case on merits before him, but no material/evidence was placed on record by assessee to substantiate sources of credit in its bank account Commissioner (Appeals) thus sustained addition made by A.O. under section 69A Held, yes Whether considering facts of instant case, there was no infirmity in view taken by lower authorities who had rightly sustained addition and accordingly, same was to be upheld - Held, yes [Paras 15, 18 and 20] [In favour of revenue]"

5.3.2 It is relevant to refer to the Decision of Hon'ble ITAT Hyderabad in the case of Mir Basheeruddin Ali Khan v. ITO 42 taxmann.com 69 wherein it is held as under:

"14. We have heard the submissions of both the parties and perused the material on record as well as the orders passed by the revenue authorities. Undisputedly as revealed from the bank account, the assessee has made cash deposit of Rs. 6,50,000/- on 8-9-2004. It is the contention of the assessee that the aforesaid deposits were out of the cash available with him from withdrawals made by him earlier from the SBI from February, 2002 to September, 2003. However, such explanation of the assessee is against human probability and totally unbelievable. When the assessee is having a bank account, it is beyond human probability and totally incomprehensible that the assessee would keep quite a substantial amount of Rs.6,50,000/- in cash with him for a period of over one year without depositing into the bank account. The assessee has also not shown any valid reason as to why he kept so much cash with him for over a period of one year when he was holding a bank account. In the absence of any cogent reason backed by sufficient evidence, the explanation of the assessee is only a make-believe story and hence cannot be accepted. The decisions relied

upon by the learned AR will also be of no help to the assessee as in the present case the assessee has failed to prove the source of deposit with valid reasons and proper evidence. In this view of the matter, we do not find any infirmity in the order of the CIT (A) in sustaining the addition of Rs. 6,50,000/-. Accordingly, we uphold the order of the CIT (A) by dismissing the ground raised by the assessee.

15. In the result, the appeal by the assessee is hereby dismissed."

5.3.3 It is also relevant to refer to the Decision of Hon'ble ITAT Bangalore in the case of Karan Sharma v. ITO in ITA No. 465/Bang/2018 wherein it is held as under:

"6. The assessee has explained that Rs. 92,54,462 is out of previous withdrawals and sale of garments and pleaded that it is to be excluded from the taxation. The assessee has not furnished any evidence to establish the nexus between the earlier withdrawals and deposits into various bank accounts. In such circumstances, we are not in agreement with the assessee's counsel that it is from the earlier withdrawals. In our opinion, these receipts are to be considered as from unknown sources to bring into taxation. Therefore, these deposits of Rs.92,54,462 to be considered as unexplained deposits from 'income from other sources. It is ordered accordingly.

7. Now the other contention of the assessee's counsel is that the unexplained deposit into bank account cannot be considered as income u/s. 68 of the Act and it should be u/s. 69/69A of the Act. In our opinion, mentioning the wrong section is not fatal, we have to see only the substance not the form. Being so, inter alia, we confirm the addition on this count at Rs. 92,54,462."

6. In view of the above factual discussions and legal matrix of the case, entire addition made by the AO is upheld, hence confirmed. Thus, the grounds of appeal no. 1 & 2 raised by the appellant is dismissed."

8. Before us, Ld. AR for assessee filed a Written-Submission (9 Pages), Paper-Book (46 Pages) and Arguments and Case Laws Compilation (41 Pages) and made following contentions:

(i) That, the assessee made following cash deposits in bank A/c with SBI:

| Bank name | Date | Amount |
|------------------|-------------|---------------|
| SBI | 09.04.2015 | 22,50,000 |
| SBI | 10.04.2015 | 71,50,000 |
| SBI | 21.03.2016 | 8,00,000 |

| | | |
|--------------|-------------------|--------------------|
| <i>SBI</i> | <i>30.03.2016</i> | <i>1,00,000</i> |
| Total | | 1,03,00,000 |

That, the assessee made following cash withdrawals from his bank A/c with SBB&J:

| Bank name | Date | Amount | Paper-Book Page |
|------------------|-------------------|------------------|------------------------|
| <i>SBB&J</i> | <i>07.04.2015</i> | <i>50,00,000</i> | <i>8</i> |
| <i>SBB&J</i> | <i>07.04.2015</i> | <i>50,00,000</i> | <i>8</i> |
| <i>SBB&J</i> | <i>08.04.2015</i> | <i>40,00,000</i> | <i>8</i> |
| <i>SBB&J</i> | <i>08.04.2015</i> | <i>50,00,000</i> | <i>8</i> |
| <i>SBB&J</i> | <i>09.02.2016</i> | <i>40,000</i> | <i>16</i> |
| <i>SBB&J</i> | <i>09.02.2016</i> | <i>8,00,000</i> | <i>16</i> |

Thus, the assessee made deposit of Rs. 22,50,000/- on 09.04.2015 (+) Rs. 71,50,000/- on 10.04.2015, aggregating to Rs. 94,00,000/- by using un-utilised funds of cash withdrawals of Rs. 1,00,00,000/- on 07.04.2015 (+) Rs. 90,00,000/- on 08.04.2015, aggregating to Rs. 1,90,00,000/-. Further, the assessee made deposit of Rs. 8,00,000/- on 21.03.2016 (+) Rs. 1,00,000/- on 30.03.2016, aggregating to Rs. 9,00,000/- by using un-utilised funds of cash withdrawals of Rs. 40,000/- on 09.02.2016 (+) Rs. 8,00,000/- on 09.02.2016 (+) other small savings/withdrawals made earlier. Therefore, the deposits have been made from assessee's own sources of cash withdrawals. He also narrated that the purpose of making withdrawals from bank was to settle a family dispute but final conclusion cannot be arrived and the withdrawn money remained unutilized partially, hence the assessee had to re-deposit the same. He submitted that the gap between cash withdrawals and cash deposit is just 1-2 days in first tranche of

deposit Rs. 94,00,000/- . Further, the gap between cash withdrawals and deposits in second tranche of Rs. 9,00,000/- is about one month and some days, which is also normal. He relied upon certain decisions of ITAT Benches, more particularly the decision of ***ITAT, Bangalore in Smt. Vinatha Madhusudan Reddy Vs. ACIT, ITA No. 257/Bang/2018*** to contend that the cash deposit out of previous cash withdrawals has to be accepted. In so far as the original source of funds received in bank a/c from which the cash withdrawals of Rs. 1,90,00,000/- were made by assessee on 07.04.2015 & 08.04.2015, Ld. AR submitted that the assessee received Rs. 90,00,000/- (+) Rs. 1,00,00,000/- on 07.04.2015 from partnership firm "M/s Hindustan Sales Industrial Corporation" immediately prior to the making of those cash withdrawals and the relevant credit entries of receipts are clearly appearing in assessee's bank pass-book/statement immediately before the debit entries of cash withdrawals.

- (ii) That, during assessment proceedings the assessee filed a detailed reply dated 28.09.2018 to AO, copy of assessee's reply is placed at Pages 4-41 of Paper-Book. In Point No. 4 of the reply so filed, the assessee clearly explained that the deposits in bank a/c were made from cash withdrawals from assessee's own bank a/cs which were later deposited due to no use. The assessee also filed the copies of bank passbooks/statements in which the credit/debit of impugned

deposits and withdrawals made by assessee are clearly reflected. However, the AO has made an observation that no lump sum cash withdrawal has been seen; this observation made by AO is patently wrong.

- (iii) That, during first appellate proceeding, the assessee filed a detailed reply dated 14.05.2022 to CIT(A) accompanied by bank passbooks/statements, copy of assessee's reply is placed at Pages 42-46 of Paper-Book. The assessee also filed a "Chart showing datewise details of cash withdrawals and cash deposits in SB Accounts" for an immediate reference of Ld. CIT(A); the chart filed by assessee is scanned and reproduced below:

BEFORE THE COMMISSIONER OF INCOME-TAX (APPEALS), NFAC, DELHI

Appellant : Pradeep Patni
PAN : ABKPP1394B
Assessment Year : 2016-17
Appeal No. : CIT (A), Bhopal – 1/10291/2018-19
DIN : ITBA/NFAC/F/APL-1/2020-21/1029247075(1)

**CHART SHOWING DATE-WISE DETAILS OF CASH WITHDRAWALS AND
CASH DEPOSITS IN SB ACCOUNTS**

| Date | Cash Withdrawals | | Cash Deposits | |
|------------|--------------------------------|-------------------------------|--------------------------------|-------------------------------|
| | SBBJ SB A/c No. 61093039977 | SBI SB A/c No. 30172963596 | SBBJ SB A/c No. 61093039977 | SBI SB A/c No. 30172963596 |
| 07/04/2015 | 1,00,00,000 | - | - | - |
| 08/04/2015 | 90,00,000 | - | - | - |
| 09/04/2015 | - | - | - | 22,50,000 |
| 10/04/2015 | - | - | - | 71,50,000 |
| 20/04/2015 | 87,50,000 | - | - | - |
| 09/05/2015 | 10,000 | - | - | - |
| 12/05/2015 | - | - | 800 | - |
| 04/07/2015 | 10,000 | 10,000 | - | - |
| 06/07/2015 | - | 20,000 | - | - |
| 10/12/2015 | - | - | 21,000 | - |
| 15/12/2015 | - | - | 15,000 | - |
| 22/12/2015 | 15,000 | - | - | - |
| 30/12/2015 | 10,000 | - | - | - |
| 31/12/2015 | 10,000 | - | - | - |
| 07/01/2016 | 1,000 | 10,000 | - | - |
| 08/01/2016 | 17,000 | 10,000 | - | - |
| 19/01/2016 | - | 15,000 | - | - |
| 20/01/2016 | - | 30,000 | - | - |
| 04/02/2016 | - | 40,000 | - | - |
| 09/02/2016 | - | 8,40,000 | - | - |
| 10/02/2016 | - | 40,000 | - | - |
| 10/03/2016 | - | 20,000 | - | - |
| 12/03/2016 | - | 40,000 | - | - |
| 14/03/2016 | - | 40,000 | - | - |
| 21/03/2016 | - | - | - | 8,00,000 |
| 22/03/2016 | - | 40,000 | - | - |
| 25/03/2016 | - | 40,000 | - | - |
| 30/03/2016 | - | - | - | 1,00,000 |
| | 2,78,23,000 | 11,95,000 | 36,800 | 1,03,00,000 |

However, the Ld. CIT(A) has basically quoted the provision of section 69A of the Act and certain judicial rulings and rejected assessee's claim without giving judicious thought to the assessee's facts.

9. Per contra, Ld. DR for revenue relied upon the orders of lower authorities.

10. We have considered rival contentions of both sides and perused the orders of lower-authorities as well as the material held on record to which our attention has been drawn. The controversy in present appeal relates to the addition of Rs. 1,03,00,000/- made by AO and upheld by CIT(A). It is undisputed that the deposits were made in SBI A/c on four dates. The assessee has consistently explained that the deposits have been made by utilizing the moneys of cash withdrawals made from SBB&J A/c on certain dates. The entries of cash withdrawals are clearly appearing in bank pass-book/statement filed in Paper-Book and the revenue is not disputing the same. The assessee has withdrawn Rs. 1,90,00,000/- in cash on 07.04.2015 & 08.04.2015, out of which Rs. 94,00,000/- was re-deposited on 09.04.2015 & 10.04.2015. Likewise, total withdrawals of Rs. 8,40,000/- were made in cash on 09.02.2016 which, alongwith earlier saving/withdrawals, are claimed to have been utilized for making deposit of Rs. 9,00,000/- on 21.03.2016 & 30.03.2016. Thus, the nexus between withdrawals and deposits is direct, proximate and supported by bank statements. It is further evident from the bank statement that immediately before the withdrawals of

Rs. 1,90,00,000/- on 07.04.2015 & 08.04.2015, the assessee had received Rs. 1,90,00,000/- on 07.04.2015 from his partnership firm "M/s Hindustan Sales Industrial Corporation". Therefore, the trail of money is adequately explained, leaving no room for invocation of section 69A. The AO's observation that no lump-sum withdrawals existed, is contrary to record as the cash withdrawals being claimed by assessee are very much reflected in the bank statement placed before lower-authorities as also placed in Paper-Book. When documentary evidence is on record, the addition based on a wrong factual premise cannot be sustained. The Hon'ble ITAT Bangalore in **Smt. Vinatha Madhusudan Reddy (supra)** has held that where cash deposits are out of earlier withdrawals and there is no material to show any otherwise utilization by revenue authorities, addition u/s 69A is not sustainable. The ITAT also held thus: *"If the revenue wants to disbelieve the plea of the Assessee, then it must show the previous withdrawal of cash would not have been available with the Assessee on the date of deposit of cash in the bank account."* Furthermore, the CIT(A) is not justified in just relying upon provisions of section 69A and certain decisions without making a judicious adjudication of the claim of assessee. The deeming provision of section 69A applies only when the "money" is found with the assessee and the "nature and source" is not explained. In present case, the assessee has sufficiently explained the nature (cash re-deposit) and source (previous withdrawals from own bank a/c) by documentary evidence. Hence, deeming fiction cannot be applied. We therefore do not find any justification in lower

authorities' action of treating the impugned bank deposits as unexplained u/s 69A. Accordingly, the addition of Rs. 1,03,00,000/- made by AO and upheld by CIT(A) is not sustainable; the same is deleted and the grounds raised by the assessee are allowed. The assessee succeeds in this appeal.

11. Resultantly, this appeal is allowed.

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| Order pronounced in open court on 16/01/2026 |
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Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 16/01/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore