

**(2024) 02 ITAT CK 0031****Income Tax Appellate Tribunal (Delhi SMC Bench)****Case No:** Income Tax Appeal No. 3341/DEL/2023

Laxmi Aggarwal

APPELLANT

Vs

ITO

RESPONDENT

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**Date of Decision:** Feb. 12, 2024**Acts Referred:**

- Income Tax Act, 1961 - Section 69A, 115BBE

**Hon'ble Judges:** Shamim Yahya, (AM)**Bench:** Single Bench**Advocate:** Vijay Singhal, Om Prakash**Final Decision:** Allowed

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**Judgement**

1. This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 30.10.2023 for the assessment year 2017-18.

2. Although the assessee has raised various grounds, the issue pertains to cash deposit in the bank.

3. Brief facts of the case are that the return of income for the year under consideration was filed on 19.03.2018 declaring total income of Rs.4,04,200/-. The case was selected for limited scrutiny under CASS with the reason 'Large value of cash deposit during demonetization period.' During the assessment proceedings, the AO noticed that the assessee had deposited Rs.14,13,500/- in SBN during the demonetization period in her bank account maintained with Vijaya bank. The AO asked the assessee to explain the source of cash deposit. The assessee submitted before the AO that the assessee has withdrawn Rs.22,00,000/- from her bank account and the cash was kept at home as she was looking for to purchase property which could not be materialized. The assessee

submitted that out of Rs.22,00,000/-, Rs.14,13,500/- was deposited in the bank during the demonetization period. The AO was not convinced with the assessee's explanation. The AO noted that there was huge gap of 8 months between the cash withdrawn and cash deposited. The AO also mentioned in the assessment order that the assessee has not produced any documentary evidence regarding the money kept at for 8 months and the same money was deposited in the bank account. The AO treated the cash deposit of Rs.14,13,500/- as unexplained u/s 69A of the Income-tax Act, 1961 (for short 'the Act'). The AO also held that this amount of Rs.14,13,500/- was to be charged to tax u/s 115BBE of the Act.

4. Upon assessee's appeal, Id. CIT (A) confirmed the action of the AO.

5. Against this order, assessee has filed appeal before me. I have heard both the parties and perused the records.

6. I find that the authorities below have not been disputing availability of cash with the assessee of Rs.22,00,000/- being amount withdrawn by her on 4.05.2016. Their grievance is that the assessee is claiming that out of the said withdrawal, Rs.14,13,500/- is deposited in the bank after 8 months. This has not been believed by the authorities below. In this regard, Id. Counsel of the assessee again submitted that assessee has sold a property and declared long term capital gain and out of the said sale, a sum of Rs.22,00,000/- was withdrawn from the bank for purchase of another property. He submitted that the cash was kept for purchase of another property but the assessee in the meanwhile fell ill and huge amount was incurred for her treatment and the balance amount of Rs.14,13,500/- was deposited in the bank. Upon careful consideration, I find that there is no denying that assessee has deposited amount in her bank out of long term capital gain and sale proceeds of house. The withdrawal of Rs.22,00,000/- is also not doubted by the authorities below. On the facts and circumstances of the case, I find that there is considerable cogency that Rs.14,13,500/- is the remaining amount out of the said cash withdrawal. Hence, I direct that the addition in this case is not sustainable. Accordingly, I set aside the orders of the authorities below.

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