

Once source of deposit in bank account is explained, subsequent withdrawal thereof need not be explained

Summary – The High Court of Gujarat in a recent case of Manoj Indravadan Chokshi, (the Assessee) held that whether, once source of cash deposit in bank account is explained, subsequent withdrawal is not required to be explained.

Facts

- During assessment, it was found that the assessee had deposited huge amount of cash in his savings account. On demand, the assessee furnished the copies of the bank statements and cash book for the relevant period in support of his cash deposits in the bank accounts.
- The Assessing Officer found that the assessee had withdrawn large sum of Rs. 39.70 lakh cash from his own bank account and again deposited the same in his bank accounts. Observing that the assessee withdrew the cash instead of sufficient cash balance available with him, the Assessing Officer added Rs. 39,70,500 as unexplained cash deposits.
- On appeal by the assessee, the Commissioner (Appeals) partly allowed the same and restricted the addition to Rs. 7,95,160 on account of unaccounted income being peak/maximum cash balance available.
- On further appeal, the Tribunal confirmed the order passed by the Commissioner (Appeals).
- On further appeal by revenue:

Held

- As such the assessee did explain the cash deposit in his bank account by submitting that he has taken the same as unsecured loan from other persons whose names were also given by him.
- Thus, as such the assessee did explain his deposit of the aforesaid amount in his bank account. Thereafter, it was immaterial whether the assessee had withdrawn the said amount and applied subsequently for his own use by re-depositing the same in his bank account. As rightly observed by the Commissioner (Appeals), once the source of cash deposit in bank account is explained, subsequent withdrawal is not required to be explained. In the facts and circumstances of the case, Commissioner (Appeals) has not committed any error in restricting the addition to the extent of Rs. 7,95,160 on account of unaccounted income.
- The restriction of addition by the Commissioner (Appeals) is confirmed by the Tribunal by observing that the Assessing Officer did not find any discrepancy between cash withdrawal from the bank and cash available in the cash book on a particular date. The assessee had not claimed any expenditure on account of interest payment. The appellant had filed the confirmation of the persons from whom loans were taken Sic.-taleen. The assessee neither paid interest nor earned any income on account of interest on advance. This aspect has not been doubted by the Assessing Officer. There is no limit

in cash withdrawing the re-depositing in the bank account. The assessee has offered a plausible and satisfactory explanation before the Assessing Officer for each financial transaction. Assessing Officer had not brought on record any evidence which proves that cash withdrawal had been invested somewhere else and cash balance in the cash book is artificial.

- In the facts and circumstances of the case, the view taken by the Tribunal as well as the Commissioner (Appeals) restricting the addition to the extent of Rs. 7,95,160 is to be agreed with. Under the circumstances, as there arises no substantial question of law, present tax appeal deserves to be dismissed.