

## **Unexplained money - proof of source cash deposited in bank account - proof of cash on hand**

ITAT DELHI:- MANISH KUMAR MITTAL VERSUS INCOME-TAX OFFICER, WARD-43 (2) , NEW DELHI-No.- ITA No. 6882/DEL/2019

Dated.- February 20, 2024

CIT(A)- Observation- The AR has further submitted that the assessee had a turnover of Rs. 76,48,900/- and the return has been filed u / s 44AD (presumptive taxation).

The contention of the Appellant has been considered and the order of AO has also been perused. The case of the appellant belongs to assessment year 2016-17 only. The limit for eligibility u/s 44AD was Rs. 60,00,000/- only. Therefore, the case of the appellant does not fall within the provisions of section 44AD. The limit of Rs. 1 Cr. was increased by the Finance Act, 2016 (w.e.f 01.04.2017). Therefore, the assessee was required to maintain books of accounts and prove the availability of cash in hand. Secondly, the appellant cannot be allowed to seek the shelter of provisions of section 139(4), as a law abiding person is by and large, supposed to file Return of Income within the provisions of section 139(1). Moreover, the assessee has claimed cash in hand of Rs. 5,71,276/- as on 31.03.2016, which he was not able to prove before the AO, despite affording multiple opportunities by the AO as mentioned on page 1 of his order. During the course of appellate proceedings also, the appellant has not been able to prove the existence of this cash in hand as on 31.03.2016. Considering the facts and circumstances of the case, I do not find any reason to interfere with the findings of the AO and accordingly the addition of Rs. 5,71,276/- made by the AO is hereby confirmed.”

Held by ITAT- From the order of the learned CIT(A) it is clear that the assessee's claim regarding cash in hand was rejected but without giving any reason for the same. If the assessee's contention is that it had turnover exceeding the limit u/s 44AD, the learned CIT(A) ought to have taken action in accordance with law. However, he merely sustained the addition made by the AO. Therefore, the claim of the assessee regarding business transaction in cash is not adverted by the lower authorities by giving a clear finding. Therefore, looking to the totality of the facts assessee having cash in hand cannot be rejected. Therefore, the impugned addition is hereby deleted. Grounds raised by the assessee are allowed