

DESAI SAKSENA & ASSOCIATES

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Friday Tax Alert

From:

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DESAI SAKSENA & ASSOCIATES

Deposits in foreign bank a/c inherited from parents not treated as undisclosed foreign income/assets: ITAT

Where Assessing Officer assessed deposits in foreign bank account of Assessee under **Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA Act)** on ground that Assessee failed to substantiate that funds were inherited from his parents, since deposits were made by parents and did not constitute undisclosed foreign income or assets, impugned addition was to be deleted.

FACTS OF THE CASE:

1. The Assessee, a tax resident of India, was subjected to proceedings under the BMA Act based on information received from the Intelligence Wing that he and his family members were maintaining a relationship with a Jersey-based financial institution since 2008, holding assets valued at GBP 17,200 (equivalent to approximately USD 200,000).
2. The Assessing Officer noticed that the Assessee had not disclosed these foreign assets in Schedule FA of his returns of income for assessment years 2012-13 to 2018-19. Accordingly, summons under section 131 were issued, and upon non-compliance, a survey action under section 133A was carried out. During the survey, the Assessee admitted to holding a joint bank account with Standard Chartered Bank, Jersey, along with his wife and son, but stated that the funds belonged to his late father, who had been engaged in business in Sudan.
3. The Assessing Officer, however, held that the Assessee failed to substantiate this claim with documentary evidence and assessed the amount of Rs. 1.56 crores as undisclosed foreign income and asset under the BMA Act.
4. On appeal, the Commissioner (Appeals) confirmed the addition made by the Assessing Officer.
5. Aggrieved by the Order of CIT(Appeals), the Assessee has filed an appeal before Tribunal.

CONCLUSION:

- i. The Assessing Officer (AO) assessed a deposit of USD 241,085.33 (approx. ₹1.56 crores) under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act (BMA), 2015.
- ii. This amount was found in a Standard Chartered Bank account. The AO noted that multiple bank accounts existed in the names of the Assessee's family members in the same bank.
- iii. The Assessee explained that funds were transferred between these family accounts, and the actual deposit amount remained USD 241,085.33.

DESAI SAKSENA & ASSOCIATES

- iv. The AO accepted that the funds were originally held in a joint account of the Assessee and his mother. Later, these were transferred to another joint account held by the Assessee, his wife, and son.
- v. The account holding the assessed amount includes funds transferred from other family accounts.
- vi. The Assessee clarified that the joint accounts with his mother were operated solely by her until her death in 2017. It was inferred that the mother managed and transferred these deposits during her lifetime.
- vii. It is the case of the tax authorities that the Assessee could not furnish any document to prove that the deposits were initially made by his father and later managed by his mother. It is stated that his father had died in the year 1984 and his mother died in the year 2017.
- viii. It is noticed that the tax authorities have asked the Assessee to explain the sources of deposits, which are claimed to have been made by the parents of the Assessee, when they were alive. Hence, it is seen that the Assessee was not involved in the banking transactions when her mother was alive. It is also noticed that the Assessee's mother was active and was travelling to various countries, which shows that she was independently managing the affairs herself.
- ix. In this kind of situation, it is quite natural that the Assessee may not be having all details relating to sources of deposits and hence, it would be difficult for anyone to furnish the complete details to the satisfaction of the tax authorities, since the banking affairs were managed by the parents of the Assessee. Hence, the Assessee could furnish only the information, which were available with him.
- x. Hence, it is viewed that the explanations of the Assessee have to be appreciated duly keeping in mind the constraints that would be faced by the Assessee in this kind of situation. Accordingly, this issue requires to be examined on the basis of best possible/available evidences.
- xi. It is noticed that the Assessee has stated that his father has opened the bank account in UK, when he was doing business in Sudan.
 - a) The fact that the parents were residing in Sudan is proved by the fact that his elder brother was born in Sudan.
 - b) The copy of passport of her mother would show that she travelled to Sudan after the death of her husband and stayed there for 22 days. According to the Assessee, she had gone there to settle all the pending issues. Further, the fact that she has travelled various countries would show that she was managing her affairs independently.
 - c) The internal communication between the bank officials, which has been extracted earlier, would show that the Assessee has explained the sources of deposits as inheritance from his parents.

DESAI SAKSENA & ASSOCIATES

- d) In the KYC forms also, the Assessee has stated the sources as inheritance only. These documents/explanations were given to the bank much prior to the enactment of BMA Act itself.
 - e) The fact that the funds were transferred from other bank accounts has also been accepted by the tax authorities.
 - f) The Assessee has stated that he was only 13 years old when the bank accounts were initially opened by his father. At that age, the Assessee may not be in a position to earn income.
- xii. The object of BMA Act was to assess the income that was not subjected to tax in India and which has been stashed away abroad. If an Assessee is **holding any asset abroad out of the income already subjected to tax in India**, then the **BMA would not be applicable**. Similarly, if the **asset held abroad has been acquired out of the income earned there**, which is **not liable to taxed in India**, then also the **BMA Act will not apply**.
- xiii. The bank accounts in question were opened and operated by the Assessee's parents during their lifetime. The deposits now being taxed in the Assessee's name were actually made before the year 2010. These deposits also include transfers from older bank accounts, where funds were deposited even earlier.
- xiv. The Assessee has explained that his father was doing business in Sudan, under the trade name "BABU". This explanation was also provided to the bank authorities.
- xv. The fact that the parents lived in Sudan is supported by:
- The mother's passport, and
 - The fact that the Assessee's brother was born in Sudan.
- xvi. The mother's passport also shows that she was managing her own affairs, including financial matters and the bank accounts. These facts clearly indicate that the deposits came from the parents' income earned abroad, not from the Assessee.

Therefore, the **Assessing Officer was not right in treating these deposits as the Assessee's undisclosed income**. The order of the Commissioner (Appeals) should be set aside. The Assessing Officer is directed to delete the additions made in the Assessee's name.

[2025] 173 taxmann.com 400 (Mumbai – trib.) in the case of Nirmal Jethalal Modi v. DDIT/ADIT (Inv.) – 2(1)

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CBDT approves 'KIMS Foundation and Research Centre' Hyderabad (PAN: AABTK7589F) as 'Other Institution' under the category of 'University, College or Other Institution'

The Central Government hereby approves 'KIMS Foundation and Research Centre' Hyderabad (PAN: AABTK7589F) as 'Other Institution' under the category of **'University, College or Other Institution'** for **'Scientific Research'** for the purposes of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with rules 5C and 5E of the Income-tax Rules, 1962.

This Notification shall apply with effect from the date of publication in the Official Gazette (i.e. from the Previous Year 2025-26) and accordingly shall be applicable for Assessment Years 2026-27 to 2030-31.

[Notification No. 33/2025/F. No. 203/33/2024/ITA-II dated 17.04.2025]