

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” “A” BENCH, BENGALURU**

Before Shri B.R. Baskaran, Accountant Member

ITA No. 635/Bang/2021
(Assessment Year: 2017-18)

Rahul B. Jain, HUF	The Income Tax Officer
Bhairav Building	Ward - 3(3)
Prathamshetty Oni	Vs. Hubballi
Kanchagar Galli	
Hubballi - 580028	

PAN – AAOHR6928L

Appellant

Respondent

Appellant by:	Shri Siddesh Nagaraj Gaddi, CA
Respondent by:	Shri Ganesh R. Ghale, Advocate Standing Counsel for Revenue

Date of Hearing: 30.05.2022

Date of Pronouncement: 30.05.2022

ORDER

Per: B.R. Baskaran, A.M.

The assessee has filed this appeal challenging the order dated 29.09.2021 passed by the learned CIT(A), National Faceless Appeal Centre (NFAC), Delhi and it relates to AY 2017-18.

2. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of Rs.25,00,000/-, being the cash deposit made into the bank account during demonetization period.

3. The facts relating to the above said issue in brief are that the AO noticed that the assessee has deposited a sum of Rs.25,00,000/- by way of cash into his bank account maintained with State Bank of India during demonetisation period. The AO asked the assessee to furnish the details of sources for making the deposit. Since the assessee did not furnish any detail, the AO assessed the above sum of Rs.25,00,000/- as income of the assessee.

4. Before the learned CIT(A) the assessee submitted that it had withdrawn a sum of Rs.18.50 lakhs by way of cash from its bank account on 05.07.2016 and the same amount along with other accumulated savings of Rs.6.50 lakhs was deposited into the bank account on the announcement of demonetisation. Since the assessee did not support its explanation with any material, the learned CIT(A) confirmed the addition.

5. I heard both the parties and perused the record. When the learned A.R. was asked as to whether the assessee is maintaining books of account and the above transactions are reflected therein, the learned A.R. answered in affirmative. The learned D.R., however, submitted that the assessee has not produced any books of account and was making submissions by relying on bank statements, cash flow statements etc. If the assessee is maintaining books of account, in my view, the assessee should explain the sources on the basis of transactions entered in the books of account. The question of explaining the sources on the basis of other material would arise only, if there are no books of account. I notice that the assessee has not produced any books of account before the tax authorities. When this was pointed out to the learned A.R., he submitted that the assessee may be provided with an opportunity to produce the books of account and explain the sources of deposit. Though the learned D.R. firmly opposed the prayer so made by the learned A.R., in the interest of justice I am of the view that the assessee may be provided with an opportunity to produce the books of account and explain the sources for making the deposit of Rs.25,00,000/-. Since the assessee was non-cooperative with the tax authorities, I am of the view that the assessee should be imposed a cost. Accordingly, I impose a cost of Rs.2,000/- upon the assessee for being lethargic and the said cost shall be deposited to the credit of Income Tax Department as 'other fees' within one month from the receipt of this order. Subject to the payment of above said cost, I set aside the order passed by the learned CIT(A) and restore the issue to the file of the AO for adjudicating it afresh by considering the books of account, information and explanation that may be furnished by the assessee. After

affording adequate opportunity of hearing the AO may take appropriate decision in accordance with law.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Dictated and pronounced in the open Court on 30th May, 2022.

Sd/-
(B.R. Baskaran)
Accountant Member

Bengaluru, Dated: 30th May, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -NFAC, Delhi*
4. *The CIT - concerned*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

By Order

//True Copy//

*Assistant Registrar
ITAT, Bengaluru*

n.p.