

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - A” BENCH : BANGALORE**

BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER

IT(IT)A No.187/Bang/2022
Assessment Year : 2017-18

Shri. Tanzing Tashi, O B M Road, Koppa, Bylukuppe, Periyapatna Taluk Mysore – 571 104. PAN : AOTPT 1710 P	Vs.	ITO (International Taxation), Ward – 1(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. V. Srinivasan, Advocate
Revenue by	:	Shri. Ganesh R Ghale, Standing Counsel for Department.

Date of hearing	:	30.05.2022
Date of Pronouncement	:	01.06.2022

ORDER

The assessee has filed this appeal challenging the order dated 31-01-2022 passed by Ld CIT(A)-12, Bengaluru and it relates to the assessment year 2017-18. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition of Rs.15 lakhs, being the cash deposited into the bank account the demonetization period.

2. The facts relating to the issue are stated in brief. The assessee is an individual and is non-resident. During the year under consideration, the assessee has deposited cash of Rs.15 lakhs during the demonetization period. The assessee explained the sources to be the sale proceeds of coffee seeds. It was stated that coffee seeds were sold to M/s. Raj Coffee Curing Works. The assessee also furnished copies of two purchase invoices issued by above

said concern for a sum of Rs.8,10,000/- and Rs.6,89,775/-. The AO noticed that the assessee had declared meager agricultural income of Rs.29,500/- and Rs.69,275/- respectively in Assessment Years 2016-17 and 2017-18. Further, it was noticed the assessee had sold his agricultural land during the financial year 2013-14 i.e., the assessee has claimed to have sold the coffee seeds after 2 years after the sale of agricultural land. The AO also issued notice under section 133(6) of the Act to M/s. Raj Coffee Curing Works, but did not receive any reply before the completion of assessment. Hence, the AO disbelieved the claim of sale of coffee seeds and accordingly assessed amount of Rs.15 lakhs under section 69 of the Act. The Ld CIT(A) also confirmed the same. Hence, the assessee has filed this appeal before the Tribunal.

3. The Ld AR submitted that the assessee has made a detailed submissions with regard to the sources for making the impugned deposits before the AO and also furnished the purchase bills issued by M/s. Raj Coffee Curing Works in support of his claim of sale of coffee seeds. The Ld AR submitted that the assessee is a non-resident and he was not present in India during the year under consideration. Hence, it is not a case, where the assessee could have generated any undisclosed income. He further submitted that the information available with the assessee is that M/s. Raj Coffee Curing Works has responded to the notice issued by AO by sending a reply to the AO on 17.12.2019, wherein it has confirmed the purchase of coffee seeds and it has also enclosed copies of purchase invoices. The Ld AR submitted that the assessee has also furnished copy of speed post receipt at page 61 of the Paper Book. The Ld AR submitted that, unfortunately the tapal was posted on 28.12.2019, i.e., after completion of the assessment

proceedings. The Ld AR submitted that the explanation given by the assessee has been confirmed by third party M/s. Raj Coffee Curing Works. The Ld A.R reiterated that considering the fact that the assessee was non-resident during the year under consideration, there is no scope to presume that the assessee had generated unaccounted income. Accordingly, by placing reliance on the decision rendered by Hon'ble Supreme Court in the case of CIT Vs. Smt. P K Noor Jahan 237 ITR 570, the Ld AR submitted that there is no reason to disbelieve the explanation furnished by the assessee. Accordingly, he prayed that the addition of Rs.15 lakhs should be deleted.

4. The Ld DR, on the contrary, submitted that the assessee had sold the agricultural land in the Financial Year 2013-14 and it is unlikely that the assessee has kept the coffee seeds with him for more than one year. Hence the explanation given by the assessee defies logic. He further submitted that the decision rendered by Hon'ble Supreme Court in the case of P K Noor Jahan cannot be applied in the facts of the present case, as the explanation given by the assessee defies logic. Accordingly, the Ld D.R submitted that, in the absence of proper explanation about sources, the addition made by AO should be sustained. In this regard, he placed reliance on the decision rendered by Hon'ble Punjab and Haryana High Court in the case of Pavittar Singh Vs. CIT (2016) 282 CTR 285.

5. I heard the rival contentions and perused the record. I notice that the assessee has claimed that he has sold coffee seeds to a concern named M/s. Raj Coffee Curing Works. The purchase invoices given by the above said concern are placed at pages 19 and 20 of the Paper Book. I notice that the

AO issued a notice under section 133(6) of the Act to the above said concern, but did not receive reply from it before the completion of the assessment. The Ld A.R has furnished proof to show that the above said concern has sent a reply to the AO, but it has been setnt after the completion of the assessment. I notice that the Ld CIT(A) also failed to take cognizance of the confirmation given by the above said concern. It was submitted by Ld AR that the assessee is a non-resident and he did not visit India during the year under consideration. Since he has sold coffee seeds prior to the date of demonetization, he was constrained to deposit the cash into the bank account after announcement of demonetization. Hence the Ld A.R contended that there is no reason to reject the explanations given by the assessee. I also find merit in the submission made by Ld AR. Since the evidence furnished by the assessee with regard to sale of coffee seeds has been confirmed by the purchaser, there is no reason to suspect the explanation given by the assessee. I also notice that the AO has not brought on record any other material to disbelieve the explanation so given by the assessee. Accordingly, I am of the view that the assessee has explained the sources for making the deposit of Rs.15 lakhs. Accordingly, I set aside the order passed by Ld CIT(A) and direct the AO to delete the disallowance of Rs.15 lakhs.

6. In the result, the appeal filed by the assessee is allowed.

Pronounced in the open court on the date mentioned on the caption page.

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

Bangalore,
Dated: 01.06.2022.
/NS/*

Copy to:

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| 1. Assessee | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.