

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

BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT

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| ITA No.605/Bang/2021 |
| Assessment Year : 2017-18 |

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| M/s. Arundhathi, 760, 60 th Cross, 5 th Block, Rajajinagar, Bengaluru – 560 010. PAN : AAXPA 4328 A | Vs. | ITO, Ward – 2(2)(2), Bengaluru. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri. Siddesh Nagaraj Gaddi, CA |
| Revenue by | : | Shri. Ganesh R Ghale, Standing Counsel for Dept. |

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| Date of hearing | : | 14.06.2022 |
| Date of Pronouncement | : | 14.06.2022 |

ORDER

This is an appeal by the assessee against the order dated 29.01.2021 of National Faceless Appeal Centre, Delhi, relating to Assessment Year 2017-18.

2. The assessee is an individual. She is a 61 years old lady. During the previous year, she was engaged in agricultural activity of growing gerbera, a variety of flower.

3. In the course of assessment proceedings under section 143(3) of the Income Tax Act, 1961 (hereinafter called ‘the Act’), for Assessment

2017-18, the AO noticed that the assessee had deposited cash of demonetized notes into the bank account as per the following details:

| Sl.No. | Name of the bank | Date of deposit | Amount |
|--------|------------------|-----------------|------------|
| 1 | HDFC | 21/11/2016 | 4,98,000/- |
| 2 | HDFC | 2/12/2016 | 4,23,000/- |
| 3 | SBM | 22/12/2016 | 4,00,000/- |

4. The assessee explained the source of cash as from carrying on of agricultural activities. The assessee filed evidence in the form of month-wise cash sales and cash deposits. The total of the cash deposited in the bank account was Rs.13,21,000/-. The AO accepted the explanation of the assessee to the extent of cash in hand available as on 08.11.2016 of Rs.7,31,868/- prior to the deposit of cash into bank account and treated the remaining sum of Rs.5,90,000/- as unexplained and added the same to the total income of the assessee under section 69 of the, Act assessable to tax rate as prescribed under section 115BBE of the Act.

5. Before the CIT(A), the assessee filed evidence to show that she owned property to the extent of 1 acre and 18 guntas in Bhadrahalli Village, Solur Hubli, Malur Taluk, Ramnagar District. The assessee also produced a project report on the proposed growing of flowers in the land owned by the assessee. The assessee also filed evidence to show purchase of saplings, purchase of fertilizers, insecticides, etc. The assessee also filed evidence to

show that she built a greenhouse wherein the flower was grown by her. With regard to the sale of the flower, assessee submitted that it was transported to K. R. Market and sold to flower vendors on cash basis and that is the modus operandi in this line of business. The assessee thus claimed that she has satisfactorily explained the source of cash that was deposited in the bank account.

6. The CIT(A), however, refused to accept the explanation as given by the assessee for the following reasons:

“6.0 I have carefully considered the facts mentioned in the assessment order, grounds of appeal, statement of facts and written submission filed by the appellant. The appellant has filed copies of invoices through which she has purchased fertilisers, chemicals and other ingredients required to carry out agricultural activities of growing Gerbera flowers. Few photographs of the Green House have also been uploaded. However, it is found that the AO has already accepted that the appellant has purchased agricultural lands and carrying out agricultural activities. The actual dispute is regarding the source of cash deposits in specified bank notes during the demonetization period over and above the cash balance of Rs. 7,31,868/- as on 8/11/2016. The Assessee has deposited Rs. 13,21,000/- in specified bank notes during the demonetization period meaning thereby that the assessee has deposited Rs. 13,21,000/- in the form of notes which ceased to be legal tender w.e.f. 9/11/2016 against her cash balance of Rs. 7,31,868/- as on 8/11/2016 . The AO has already allowed the benefit to the appellant to the extent of cash balance available with the assessee as on 8/11/2016.

6.1 The submission filed by the appellant during the appellate proceedings is found to be general and vague. Supporting bills for sale of flowers in specified bank notes has not been filed by the appellant. Therefore, merely making a claim that she has sold the flowers after 8/11/2016 in specified bank notes is not acceptable. In the instant case, the appellant has failed to demonstrate that the balance cash deposit of Rs. 5,90,000/- arose out of business

transactions after 8/11/2016 in specified bank notes. Further. it is also found that w.e.f. 1.4.2017, income tax is payable at the rate of 60% as per section 115 BBE if the income referred to in section 68, 69,69A, 69B.69C.69D is included in total income of the assessee.To conclude, considering the entirety of facts and circumstances of the case. I do not find any infirmity in the findings and the order of the AO. Initiation of penalty proceedings is not adjudicated as separate appeal lies against the imposition of penalty. Levy of interest u/s 234A,B,C is mandatory and consequential. Therefore, the addition of Rs. 5,90,0001- made by the AO is hereby sustained and all the grounds of appeal filed by the appellant are dismissed.”

7. Aggrieved by the order of the CIT(A), assessee is in appeal before the Tribunal. I have heard the rival submissions. I am of the view that the evidence on record sufficiently demonstrates the factum of carrying on agricultural operation by the assessee. Even the AO and the CIT(A) accept this fact. The only dispute is with regard to quantum of agricultural income. In this regard, it is worthwhile to note that the assessee has returned a gross agricultural income of Rs.39 lakhs and a net agricultural income of Rs.15.09 lakhs, which has not been distrusted or disbelieved by the Revenue authorities. In these circumstances, the explanation offered by the assessee cannot be brushed aside as general and vague. The assessee has filed evidence to show that that the assessee had obtained loan from HDFC, letter of interest issued by the National Horticulture Board, Ministry of Agriculture, Government of India. The absence of evidence regarding sale proceeds of flower, in the facts and circumstances of the present case, is not fatal to the case of the Assessee. The practice of selling flowers to vendors on a wholesale basis, on cash and carry basis, is not disputed or disbelieved by the revenue authorities. In my opinion, on a preponderance of probability, the case of the assessee has to be accepted, as the evidence on record shows that the assessee would have earned a sum of Rs.13.21 lakhs which was the cash deposited in the bank account. In this regard, I am of

the view that the fact that sale proceeds in the horticulture sector is generally in the form of cash and this plea of the assessee has to be accepted. I, therefore, delete the addition sustained by the CIT(A) and allow the appeal of the assessee.

8. In the result, appeal of the assessee is allowed.

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

Sd/-
(N.V. VASUDEVAN)
Vice President

Bangalore,
Dated: 14.06.2022.
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| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.