

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.551/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Sri Madheswara Agencies, Represented by its partner K. Enbasekaran No.99, JMG Golden Complex, Opp: Bus Stand, Hosur – 635 109.	बनाम/ Vs.	ITO Ward-1, Hosur.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. ABBFS-2569-Q		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri T.S. Lakshmi Venkatraman (FCA) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri P. Sajit Kumar (JCIT) – Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	21-07-2022
घोषणा की तारीख / Date of Pronouncement	:	21-07-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 24-06-2022 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 30-12-2019. The grounds taken by the assessee are as under:

1. The learned CIT(A) is not justified in sustaining the addition for a sum of Rs.46,000/-made originally by the AO u/s 69A r.w.s. 115BBE of the Act.

2. The reason stated by the CIT(A) to uphold the order is that the appellant did not bring any material on record to establish that the amount was out of his business receipts which is against the facts. The appellant has discharged the onus casted upon them by furnishing cash book before the AO where source was explained. It is also pertinent to point out that the books of accounts were accepted by the AO which is documentary evidence in its own value.

3. The CIT(A) is not justified in rejecting the explanation of the Appellant based on conjecture and surmise but without possessing any material on record that the source for cash deposit made by the appellant is from undisclosed source.

4. In view of the above grounds and other submissions to be made at the time of appeal hearing the addition sustained, a sum of Rs.46,000/- to the returned income may be deleted and justice rendered.

2. As evident, the sole grievance of the assessee is addition of Rs.46,000/- u/s. 69A. The Ld. AR filed written submissions. The Sr. DR justified the additions on the given factual matrix. Having heard rival submissions, our adjudication would be as under.

3. The assessee being resident firm is stated to be engaged as distributor of prepaid cards of BSNL on commission basis. During assessment proceedings, it transpired that the assessee deposited sum of Rs.49.12 Lacs in one of the accounts maintained with Corporation Bank. Out of this deposit, a sum of Rs.46000/- was deposited on 29.11.2016 in the denomination value of one thousand rupees and five hundred rupees. It was submitted that as per prevailing government notifications, the assessee was permitted to receive cash in demonetized currency. In support, the assessee also submitted letter from BSNL. In terms of government notification, the persons involved in recharge of prepaid sim cards were allowed to accept cash in the denomination value of one thousand rupees till 24.11.2016. Since the deposit of Rs.46,000/- was made after that date, the same was added to assessee's income as unexplained which would be taxable at higher rate u/s 115BBE.

4. During appellate proceedings, the assessee submitted that these deposits were out of business receipts only. These notes could be deposited till 31.12.2016 provided the source of the same was explained by the assessee, The Specified Bank Notes (SBN) continued to be legal tender till 30.12.2016. However, rejecting the same, Ld. CIT(A) upheld the stand of Ld. AO against which the assessee is in further appeal before us.

5. Upon careful consideration of material facts, we find that as per extant provisions, the assessee was permitted to accept demonetized currency till 24.11.2016 and the only reason to suspect the source of the same is the fact that the same was deposited on 29.11.2016. The adjudication of lower authorities overlooks the fact that the assessee deposited as much as Rs.49.12 Lacs out of which only an amount of Rs.0.46 Lacs is suspected to be unexplained income of the assessee. It could also be seen that the demonetized currency could be deposited till 31.12.2016. Therefore, we do not concur with the stand of Ld. CIT(A). By deleting the impugned addition, we allow the grounds raised by the assessee.

6. The appeal stand allowed.

Order pronounced on 21st July, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 21-07-2022

EDN/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF