

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.517/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shaik Abdul Rasheed No.101, Block No.AF-1, Avvai Thiru Nagar 1 st Main Road, Koyambedu, Chennai – 600 092.	बनाम/ Vs.	DCIT Non Corporate Circle-8(1), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AHEPR-0292-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri K. Balasubramanian (Advocate) – Ld. A.R
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Ravindra T. Mishra (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 09-05-2022 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29-11-2019. The grounds taken by the assessee are as under:

1. Order of the Commissioner of Income-tax(Appeals), NFAC, Delhi is contrary to law, weight of evidence and probabilities of the case

2.1 As against the facts and evidence let in, Learned CIT(A), NFAC erred in confirming the addition of Rs.1,37,98,330 towards cash deposit in banks during demonetization period without looking into the evidence let in on 5/5/2022 [vide e proceedings Ack No.608642831050522 & earlier on 5-3-2021, 19-11-2021] that SBNs deposits during such period was only Rs.98,26,000 and not Rs.1,37,98,300 as the latter includes non demonetized notes also.

2.2 Learned CIT(A), NFAC erred in merely reproducing the asst.order without appreciating the fact that appellant's turnover from SSK Traders & SSK Impex on sale of fruits on wholesale-cash and carry basis was Rs.70.36 crores which cash was deposited into the banks and which is the source for such cash deposits, including the demonetization period. He failed to look into the financial statements, bank accounts etc., filed during appellate e-proceedings.

2.3 Learned CIT(a) erred in not appreciating the provisions of Sections. 5 & 2(l)(a) of The Specified Bank notes (Cessation of Liabilities) Act 2017 and RBI's Press Release permitting tendering of SBNs upto 31/12/2016 and obtaining value thereof by credit into respective bank accounts and hence such deposits are not unexplained investments.

3. Learned CIT(A), NFAC, similarly, erred in confirming the addition of Rs.10,00,000, being agricultural income, assessed under the head other sources, by merely relying on asst. order, without looking into the evidence of 3 VAO certificates filed on 5-3-2021 before him.

For the reason stated above and those that may be adduced at the time of hearing appellant prays that Hon'ble ITAT be pleased to delete the additions and/or to send back the issues for fresh adjudication by CIT (A). Appellant craves leave of Hon'ble ITAT to file additional grounds, if any.

As evident, the assessee is aggrieved by confirmation of certain additions.

2. The Ld. AR, drawing attention to the orders of lower authorities, pleaded for another opportunity of hearing whereas Ld. Sr. DR pleaded for dismissal of the appeal on the ground that the assessee failed to make any representation before lower authorities. Having heard rival submissions, our adjudication would be as under.

3. Upon perusal of assessment order, it could be seen that the assessee was assessed on best judgment basis u/s 144 and saddled with additions of cash deposit of Rs.137.98 Lacs. The agricultural income shown by the assessee was assessed as income from other sources. The assessment was so framed since the assessee did not respond to the hearing notices. The position remained the same during

first appellate proceedings which led to dismiss of the appeal of the appeal. Aggrieved, the assessee is in further appeal before us.

4. Though we concur with the submissions of Ld. Sr. DR that the assessee has remained negligent before lower authorities, however, keeping in view the principle of natural justice, we set-aside the impugned order and remit the matter back to the file of Ld. AO for denovo adjudication with a direction to the assessee to substantiate its stand.

5. The appeal stand allowed for statistical purposes.

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