

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 90/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

Prabhadevi 291, Banumathyillam, Chinnamuthu Street, EdayanKattuValasu, Erode - 638 011.	बनाम/ Vs.	ACIT Circle -2, Erode.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AMTPP-7611-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri N. Arjun Raj, CA
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/ Date of Hearing	:	21.07.2022
घोषणा की तारीख / Date of Pronouncement	:	03.08.2022

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by assessee is arising out of the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Appeal No. CIT(A), Coimbatore-3/10441/2019-20 vide order dated 27.12.2021. Assessment was framed by ACIT, Circle 2, Erode for AY

2017-18 u/s. 143(3) of the Income-tax Act, 1961 (herein after referred to as 'the Act') vide order dated 27.11.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the AO in making addition of cash deposits of Rs. 25.30 Lacs as unexplained cash credits u/s. 68 of the Act. For this issue, assessee has raised various grounds which need not to be reproduced.

3. Brief facts are that the assessee is an individual and declaring income from house property, income from business and agricultural income. The assessee is running the firm tasty food products. The assessee's case was selected for scrutiny as assessee has declared large agricultural income and large cash deposits during demonetization. The AO noticed that there are cash deposits made by the assessee as under:

3.1 Cash deposits made by the assessee during the year:

As per the submissions, the cash deposit made by the assessee during the year was arising out of the following sources:

1. Opening Cash	Rs. 8,25,162/-
2. Drawings from Prabha Bakers	Rs. 20,00,000/-
3. Rent from Lotus Residency	Rs. 60,000/-
4. Net Agricultural Income	Rs. 5,30,000/-
Total	Rs. 34,15,162/-

The AO required the assessee to explain the source of this cash deposits and according to him the assessee is unable to prove the agricultural income declared at Rs. 5,30,000/- and the unexplained demonetization

money of Rs. 20 Lacs, the Assessing Officer treated both the deposits and aggregated to Rs. 25.30 Lacs as unexplained cash credits u/s. 68 of the Act. The AO gave reason that the assessee is unable to explain these credits and assessee is unable to produce any evidence of cash demonetization deposits i.e., claim made by conducting business by producing the purchase/sale bills, the trade license, TIN Number, any registration with Government department, evidence to prove the business receipts, monthly sales tax return or any evidence of cash deposit made on regular intervals and also copy of adangal, sale of agricultural produce etc. As the assessee failed to provide these items, Assessing Officer added the entire cash deposits of Rs. 25.30 Lacs. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) simpliciter vide Para 5 which has confirmed the addition without passing a speaking order on the issues and evidences filed by assessee in its grounds of appeal and statement of facts. The CIT(A) in Para 5 given following findings:

" 5.

The appellant could not prove the earning of agricultural income with evidence like land records, purchases made for agriculture expenses, sale of agriculture produce before the AO or during appeal stage. Therefore, I do not find force in the submission of the appellant. The case law relied upon by the appellant or on their own footing and distinguishable either on facts or on issues involved. Thus, the addition of Rs. 25,30,000/- u/s. 68 is hereby confirmed."

4. Now before us, Ld. Counsel for the assessee requested one more opportunity and directions to the CIT(A) to decide the issue after taking all the evidences on record and then passing a speaking order. On the other hand, the Ld. Senior DR could not controvert the above facts situation and he relied on the assessment order and the order of the CIT(A).

5. We noted that the order of the CIT(A) is not a speaking order and hence we set aside the same. Accordingly, the matter is set aside and issue remanded back to the file of the AO for passing fresh appellate order by speaking order after allowing reasonable opportunity of being heard to the assessee.

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

Order pronounced on 3rd August, 2022.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई / Chennai; दिनांक / Dated : 03-08-2022

JPV

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

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