

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' 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.: 138/CHNY/2021

निर्धारण वर्ष /Assessment Year: 2017-18

**Shri Shankara Reddy  
Hareesh,**  
D.No.2-92-4,  
M/s. NSR Mobiles & Browsing,  
Chichurangapalli,  
Sevaganaoalli (PO),  
Hosur – 635 103.

**The Income Tax Officer,**  
vs. Ward 1,  
Hosur.

**PAN: ADIPH 7900B**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 03.08.2022

घोषणा की तारीख/Date of Pronouncement

: 03.08.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre in Appeal No.CIT(A), Salem/10870/2019-20 dated 31.03.2021. The assessment was framed by the ITO, Ward 1,

Hosur for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 17.12.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of AO in making addition of cash deposits as unexplained amounting to Rs.5,40,000/- u/s.69A of the Act.

3. Brief facts are that the AO noticed that there are cash payments in bank account during the year and for that limited scrutiny, the assessee's case was selected by CASS. The assessee had declared income from business and agriculture. The AO noticed that the assessee has deposited cash of Rs.1,19,500/- in his savings bank account maintained with IDBI Bank and Rs.6,37,000/- in his current bank account maintained with IDBI during demonetization period. The AO required the assessee to explain. The assessee explained that he is in the business of money transfer and he is also transferring the money of the persons working with Exide company and also undertakes transfer of their salary amount to their native place and he gets 1% commission out of the transfer amounts. The assessee claimed that he has made total cash deposits during the year at Rs.1,33,06,500/- and the cash deposits were transfer to

various persons accounts because the cash belongs to those persons only. The assessee further explained that during demonetization period, he has deposited money of following relatives:-

1. Thimmakka	248000
2. Gowramma	195000
3. Sowda Reddy	146500
4. Own money	<u>47000</u>
	636500

The AO noted that the assessee had changed his stand. First, he stated that the assessee is transferring the money of various persons particularly working in Exide company. Subsequently, he explained that the above amount of Rs.6,36,500/- i.e., cash deposit, for which assessee's case was selected for scrutiny to verify the large cash payment in the bank account, the assessee changed stand and stated that the above cash belongs to relatives. The AO noted the cash deposits made on various dates and noted that Rs.5,40,000/- cash deposit is during the period of demonetization and in demonetized currencies. As the assessee was unable to explain or explanation was not plausible, the AO treated the amount of Rs.5,40,000/- of cash deposit made in demonetized currencies during the period 09.11.2016 to 30.11.2016 as unexplained money u/s.69A of the Act and taxed at the prescribed rate u/s.115BBE of the Act. Aggrieved assessee preferred appeal before CIT(A).

3.1 The CIT(A) stated that the assessee could not prove the genuineness of the deposits or could not explain the sources of deposits and accordingly, he confirmed the addition by observing in para 5.2 as under:-

“5.2 The assessment order and the submissions of the appellant have been perused. It is seen from the assessment order that the appellant had made cash deposits in his bank account amounting to Rs.6,37,000/- in the current account pertaining to his business dealing in money transfer during the demonetization period from 10.11.2016 to 01.12.2016. The appellant explained before the AO that the cash deposits are the amounts belong to his three relatives and submitted copies of Aadhar card pertaining to two persons only. The burden lies on the appellant to prove the deposits as genuine which the appellant could not establish. Further, in the submissions before the undersigned, the appellant has taken a different stand, wherein he has submitted that the AO has not accepted cash deposits represent collections from his customers. The dual standard of the appellant is not acceptable. It is also seen from the assessment order that the appellant's business i.e., money transfer, was not exempted for receiving demonetized currencies during the demonetization period as per the Government of India Notification. In view of the above, the contention of the appellant do not hold merit. The action of the AO is upheld and Ground Nos.2, 3 and 4 are dismissed.”

Aggrieved, assessee is in appeal before the Tribunal.

4. We have heard rival contentions and gone through facts and circumstances of the case. Before us, the Id.counsel for the assessee stated that actually the assessee is in the business of money transfer or he could be called as money changer and he filed his return of income first on 28.06.2017 and immediately filed a revised return by stating the nature of business. He stated that this

amount of Rs.5,40,000/- pertains to various persons for which the assessee undertakes transfer of money as a money changer. The Id.counsel for the assessee only requested that none of the authorities below have understood the issue and despite a specific explanation filed before AO as well as the CIT(A), the explanation was not accepted. He requested that the matter may be remitted back to the file of the AO so that he can file the evidences that this cash deposits is of various persons for whom the assessee undertakes the money transfer.

5. The Id. Sr. DR opposed the setting aside of the matter to the file of the AO for the reason that the assessee is unable to file any evidence qua his plea raised before Bench also.

6. We noted that the CIT(A) has not at all adjudicated the issue and even before AO incorrectly the assessee has taken two stands but it seems that there is some confusion regarding cash payments and cash deposits. Apparently these are cash deposits made by the assessee in the bank account during the demonetization period of demonetized currencies. Now the question arises whether the cash belongs to the assessee or it is business cash of the assessee, it is to be proved. Hence, in the interest of justice, allowing one more

opportunity to the assessee, we remand this issue back to the file of the AO. Accordingly, the orders of the lower authorities are set aside and the matter is remanded back to the AO for fresh adjudication after allowing reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 3<sup>rd</sup> August, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 3<sup>rd</sup> August, 2022

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy 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.            |