

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 969/CHNY/2020

निर्धारण वर्ष/Assessment Year: 2017-18

Smt. Sonal Kumari,
131, 2nd Floor,
Rasappa Chetty Street,
Chennai – 600 003.

The Income Tax Officer,
vs. Non-Corporate Ward 6(2),
Chennai.

PAN: DMMPS 8474P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri Jitesh Parmar, CA
: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 09.01.2023

घोषणा की तारीख/Date of Pronouncement : 11.01.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-5, Chennai in ITBA No.10118/CIT(A)-5/2019-20 dated 15.09.2020. The assessment was framed by the Income Tax Officer, Non Corporate Ward 6(2), Chennai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 14.11.2019.

2. At the outset, it is noticed that this appeal of assessee is barred by limitation by 5 days. The impugned order was received by assessee on 14.12.2020 and appeal before Tribunal was to be filed on or before 08.12.2020 but appeal was actually filed on 14.12.2020 thereby there is a delay of 5 days. We noted that the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. Since the Hon'ble Supreme Court has condoned the delay during the said period, respectfully following the same we condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of AO in adding the cash deposited during demonetization period in assessee's savings bank account maintained with Punjab National Bank between 15.11.2016 to 05.12.2016 amounting to Rs.7.68 lakhs. The AO noted that the assessee has admitted income only to Rs.2,42,540/- during the financial year relevant to this assessment year 2017-18 and hence, giving credit for the same, the AO assessed the balance cash

deposit of Rs.5,25,460/- as unexplained investment u/s.69 of the Act. Aggrieved assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of the AO as the assessee could not produce any evidence before him and he confirmed by observing in para 6 as under:-

“6. Matter is considered. Perused the assessment order and the submissions e-filed by the appellant. Except for saying that the source of the impugned cash deposits is from past savings, the AR has not demonstrated the same with any documentary evidence before me. To that extent, the appellant has not discharged the onus of proving the sources of deposits of specified bank notes (SBNs) to the tune of Rs.5,25,460/- as determined by the AO. Hence, I decline to interfere with the addition made at Rs.5,25,460/- as unexplained investment u/s 69 of the IT Act, 1961. The grounds taken are dismissed.”

Aggrieved assessee came in appeal before Tribunal.

4. Now before us, the Id.counsel for the assessee filed paper-book consisting of 25 pages wherein he has filed cash flow statement, profit & loss account for the year ending 31.03.2017 and profit & loss account for the year ending 31.03.2016 wherein cash in hand of Rs.2,12,625/- & Rs.8,25,295/- respectively is declared. The Id.counsel for the assessee stated that the assessee is filing returns of income from assessment year 2011-12 to 2015-16 and source is tuition income. It was answered by Id.counsel, on query from the Bench, that these profit & loss account now filed before us was never part of the returns of income filed earlier. In our view all

these evidences are created and after thought and assessee is unable to prove the cash deposit made during demonetization period of amount of Rs.5,25,460/-. Even the sources explained by assessee is that of tuition but on query, the Id.counsel could not explain to whom and how many children, the assessee is taking tuition and what is her educational qualification. In the absence of any evidences, we confirm the order of CIT(A). The appeal of the assessee is dismissed.

5. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 11th January, 2023 at Chennai.

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 11th January, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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