

आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM 'SMC' BENCH, VISAKHAPATNAM**

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

**आयकर अपील सं./I.T.A.No.233/Viz/2022
(निर्धारण वर्ष / Assessment Year : 2017-18)**

Sirajunnisa Majeed
D.No.32-29-5/3
Flat No.503, Mata Enclave
Cococola Street, Maruthi Nagar
Vijayawada

**[PAN : BDEPM8411R]
(अपीलार्थी/ Appellant)**

Vs. Income Tax Officer
Ward-3(1)
Vijayawada

(प्रत्यर्थी/ Respondent)

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

: Shri G.V.N.Hari, AR
: Shri ON Hari Prasada Rao, DR

सुनवाई की तारीख / Date of Hearing

: 16.02.2023

घोषणा की तारीख/Date of Pronouncement

: 22.02.2023

आदेश /ORDER

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2022-23/1046045739(1) dated 28.09..2022 for the Assessment Year (A.Y.) 2017-18.

2. Brief facts of the case are that the assessee is an individual, deriving income from business of running a beauty parlour, filed her return of

income, declaring a total income of Rs.2,71,050/- for the A.Y.2017-18. During the financial year 2016-17, relevant to the A.Y.2017-18, the assessee deposited Rs.3,85,756/- and Rs.15,79,721/- in Andhra Bank, Labbipet Branch with Account No.034310100096572 and SBI One Town Branch with Account No.3159796110 respectively. Out of the above, Rs.3,12,000/- and Rs.7,42,500/- were deposited in the above mentioned bank accounts of Andhra Bank & SBI respectively by way of SBNs during the demonetization period. The Assessing Officer (AO) issued notices u/s 142(1) of the Income Tax Act, 1961 (in short 'Act') dated 18.09.2019, requiring the assessee to furnish sources for cash deposits and cash sales made during the demonetization period. As there was no response from the assessee, show cause notice dated 21.09.2019 was issued and duly served on the assessee through mail, wherein, the assessee was required to furnish the sources for cash deposits made in the above mentioned bank accounts on or before 24.09.2019, otherwise the same would be treated as income from unexplained sources. In response, the assessee submitted that she is engaged in running beauty parlour and saree business and all the cash deposits made were out of sale proceeds of the business. The assessee also submitted that she has taken loans from friends and relatives to start another beauty parlour, but due to ill health,

the same were deposited in the account and transferred to the respective persons from whom loans amounts were taken and furnished the return of income filed on 17.06.2018 for the A.Y.2017-18, wherein, the assessee admitted income under presumptive business to the extent of Rs.2,71,050/-.

Not being convinced with the explanation of the assessee, the AO issued notice u/s 142(1) dated 11.10.2019 through mail, requiring the assessee to furnish the details of persons from whom loans were taken, such as identity, genuineness of transactions, creditworthiness, mode of receipt whether by way of cash or cheque, confirmation from creditors, details of cash sales affected during the year, month-wise and details of savings of family members. Since there was no response, another opportunity was given by issuing notice u/s 142(1) dated 01.11.2019 and the same was served on the assessee through mail. In response, the assessee furnished copies of Aadhaar cards of her family members. As mere submission of copies of Aadhaar cards is not at all compliance to the notice issued and since the assessee has not furnished any relevant evidence in support of her claim, the AO completed the assessment by making addition of the entire SBNs of Rs.10,54,500/- as unexplained

money u/s 69A of the Act to the income returned by the assessee for the A.Y.2017-18.

3. On being aggrieved, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee holding that the provisions of 69A are clearly applicable in assessee's case. The assessee inspite of being given ample opportunities during assessment and appellant proceedings, failed to offer any explanation about the nature and source of the deposits with documentary evidence.

4. On being aggrieved, the assessee preferred appeal before the Tribunal and raised the following grounds :

1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.10,54,500/- made by the assessing officer u/s 69A of the Act towards alleged unexplained cash deposited in the bank account.

3. Any other grounds may be urged at the time of hearing.

5. Ground No.1 and 2 are general in nature, which does not require specific adjudication.

6. Ground No.2 is related to sustaining the addition made by the AO u/s 69A of the Act towards alleged unexplained cash deposits in the bank

account. The Ld.AR submitted that the assessee is not aware of the notices served online and moreover she has fallen ill. The cash deposits are out of cash balance as on 08.11.2016. The Ld.AR pleaded that the assessee may be given one more opportunity before Ld.CIT(A) to substantiate her case.

7. On the other hand, the Ld.DR relied on the order of the Ld.CIT(A) and pleaded to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

8. We have heard both the parties and perused the material available on record. It is an undisputed fact that the assessee has made cash deposits during demonetisation period by way of SBNs. The Ld.AR submitted that the cash deposits are out of cash balance as on 08.11.2016. The assessee could not substantiate her case either before the AO or before the CIT(A) and pleaded for one more opportunity of being heard to substantiate her case with evidences. In order to meet the principles of natural justice, we remit the matter back to the file of the Ld.CIT(A) and direct the Ld.CIT(A) to afford one more opportunity of being heard to the assessee to substantiate her case. The assessee is also

directed to adhere to the notices served and produce relevant evidences sought by the department.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 22nd February, 2023.

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 22. 02.2023
L.Rama, SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee- Sirajunnisa Majeed, D.No.32-29-5/3, Flat No.503, Mata Enclave, Cococola Street, Maruthi Nagar, Vijayawada
2. राजस्व/The Revenue – Income Tax Officer, Ward-3(1), Vijayawada
3. The Principal Commissioner of Income Tax, Visakhapatnam
4. The Commissioner of Income Tax, Visakhapatnam
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 6..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam