

आयकर अपीलीय अधिकरण, 'ए' / SMC न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' /SMC BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT

आयकरअपीलसं./I.T.A.No.760/Chny/2022

(निर्धारणवर्ष / Assessment Year: 2017-18)

Shivji Bhanji Patel No.55/2B, 1-B, Tanjore Road Kattur, Trichy-620 019.	Vs	The Income Tax Officer, Ward-1(3), Trichy.
PAN: AWUPS 6866J		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. N.Arjunraj, C.A for Mr.S.Sridhar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. S.Chandrasekaran, JCIT

सुनवाईकीतारीख/Date of hearing	:	08.03.2023
घोषणाकीतारीख /Date of Pronouncement	:	08.03.2023

आदेश / ORDER

This appeal filed by the assessee is arising out of order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi vide appeal No. ITBA/NFAC/S/250/2022-23 / 1043797156(1) dated 11.07.2022. The assessment was completed by the Income Tax Officer, Ward-1(3), Trichy for the relevant assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 26.11.2019.

2. The only issue in the appeal of the assessee is as regards to order of the CIT(A) confirming action of the Assessing Officer in making addition of cash deposits made by the

assessee during demonetization period in specified bank notes added by the Assessing Officer u/s.69 r.w.s 115BBE of the Income Tax Act, 1961 (hereinafter 'the Act') amounting to Rs.12.50 lakhs.

3. Briefly stated facts are that the assessee is engaged in trading of timber and earning commission from the same. During the year under consideration, the assessee deposited cash during demonetization period in specified bank notes to the tune of Rs.12.50 lakhs viz., (i)Rs.10,00,000/- in the KVB account No.1624155000062122 maintained at Tiruvarambur branch and (ii) Rs.2,50,000/- in KVB account no. 1195155000073538 maintained at Trichy Main Branch. The assessee before the Assessing Officer could not produce any evidence to substantiate cash deposits and hence, the Assessing Officer added the same as unexplained money u/s.69A of the Act and taxed the same u/s.115BBE of the Act. Aggrieved, the assessee preferred appeal before the CIT(A).

4. Before the CIT(A), the assessee only submitted bifurcation of alleged source of cash deposits as under:-

a) Opening Balance	: 1,50,000
b) Agricultural income	: 1,25,000

c) Sundry debtors realized	: 6,75,000
d) Timber dealing commission	: <u>3,00,000</u>
Total Rs.	<u>12,50,000</u>

Before the CIT(A), apart from the above bifurcation, nothing was produced in regard to agricultural income or sundry debtors realization. As regards sundry debtors realization, only list of sundry advances and interest received was provided. Hence, the CIT(A), confirmed action of the Assessing Officer. Aggrieved, now the assessee is in appeal before the Tribunal.

5. I have heard rival contentions and gone through facts and circumstances of the case. Admitted facts are that the assessee deposited cash during demonetization period amounting to Rs.12.50 lakhs in the above stated bank accounts. The assessee's contention in regard to commission earned on account of timber dealing, amounting to Rs.3 lakhs has already been declared in the return of income and also interest earned on account of sundry debtors realization of Rs.1.35 lakhs, which is included in the return of income can be treated as explanation in regard to cash deposits. But, there is no evidence submitted by the assessee in regard to sundry debtors realization of Rs.5.40 lakhs. Since, the assessee even

now before me could not produce any evidence, except list of sundry debtors to prove that money was actually realized from the sundry debtors, the same cannot be accepted, hence, this amount of addition of Rs. 5.40 is confirmed.

6. As regards, opening balance and agricultural income of Rs.1.50 lakhs and Rs.1.25 lakhs respectively, the assessee could not substantiate by any evidence, even before me and admittedly neither before the Assessing Officer nor before CIT(A), hence, I have no alternative, except to confirm these two amounts as addition. Accordingly, I accept source of cash deposit as explained only to the extent of Rs.3.35 lakhs and balance amount is confirmed i.e Rs.9.15 lakhs. Accordingly, the Assessing Officer is directed to delete addition to the extent of Rs.3.35 lakhs and balance addition of Rs.9.15 lakhs is confirmed.

7. The appeal of the assessee is partly allowed.

Order pronounced in the open court on 8th March, 2023

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President

चेन्नई/Chennai,

दिनांक/Dated 08.03.2023

DS

आदेश की प्रतिलिपि अद्येषित/Copy to:

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