



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**ITA No.159/CTK/2022**

Assessment Year : 2017-18

Chitaranjan Jena, Pubasasan, Kausal Ganga, Pipili, Bhubaneswar.	Vs.	ITO, Ward, Puri.
PAN/GIR No.AJPKJ 5787 A		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : S/Shri Mohit Sheth & Laxmi Kanta Acharya, ARs  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 01/05/2023**  
**Date of Pronouncement : 01/05/2023**

**ORDER**

This is an appeal filed by the assessee against the order of the Id CIT(A) , NFAC, Delhi dated 4.8.2022 in Appeal No.ITBA/NFAC/S/250/2022-231/1044492345(1) for the assessment year 2017-18.

**2.** S/Shri Mohit Sheth & Laxmi Kanta Acharya, ARs appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

**3.** The appeal is delayed by 8 days. The assessee has filed condonation petition stating that as the assessee was suffering from some health

problems, the appeal was filed late by 8 days. It was the prayer that small delay of 8 days may be condoned. Ld Sr DR did not have any objection to the request of Id AR. Consequently, I condone the delay of 8 days and admit the appeal for adjudication.

4. In this appeal, two issues have been raised. The first issue is in regard to addition of Rs.7,47,500/- representing SBN notes (specified bank notes) deposited by the assessee between 10.11.2016 and 29.12.2016. The second issue is in regard to addition of Rs.70,310/- representing interest from bank deposit, which has been recognized by the Assessing Officer from 26AS statement but the benefit of TDS had not been granted to the assessee.

5. At the time of hearing, Id AR submitted that the amount of Rs.70,310/- has been included in the total income but at present it would be practically difficult to show the break-up. It was the submission that he had no objection for the amount being added and addition confirmed. It was only the prayer that TDS in respect of the same may be granted to the assessee as the Assessing Officer has not considered it.

6. In reply, Id Sr DR submitted that no specific ground in regard to the issue has been raised by the assessee and consequently, it should not be considered. It was the submission that if the AO has got the figures from

26AS statement, then obviously, the Assessing Officer would grant the assessee the benefit of TDS.

7. Ld AR submitted that the Ground No.7 is general ground raised and consequently, this issue should be considered by the Tribunal.

8. I have considered the rival submissions. As rightly pointed out by Id Sr DR that no specific ground in respect of the interest has been raised and it has also been pointed out by Id Sr DR that if the AO has considered the addition from 26AS statement then he would consider other portion of 26AS statement also. This being so, as no specific ground has been raised by the assessee on this issue, I refuse to adjudicate on the issue.

9. In regard to the issue of SBN notes deposited of Rs.7,47,500/-, it was submitted by Id AR that the turnover of the assessee was Rs.2,82,77,677/-. The total deposit in cash during the relevant assessment year was only Rs.22,57,000/-. It was the submission that the cash balance as on 8.11.2016 was Rs.23,69,266/-. It was the submission that it was out of this opening cash available on 8.11.2016, the assessee has deposited Rs.7,47,500/- in the bank account in the form of SBN notes. It was the submission that the deposit had been made in the bank account as mentioned by the Assessing Officer. However, in the cash book, the said bank account has been identified as State Bank of Hyderabad (SBH) bank account, which was a typographical error. It was the submission that SBH

had been taken over by State Bank of India (SBI) and the Accountant of the assessee had mistakenly put SBH instead of SBI. It was the submission that this is an Overdraft (OD) account. It was the further submission that the OD account having been considered by the assessee when computing the total income for the relevant assessment year, these deposits have also been considered by the assessee and the books of account of the assessee having not been rejected, no specific addition on this account is permissible.

10. In reply, Id Sr DR submitted that the cash book had not been produced before the Assessing Officer. It was the further submission that SBI letter, which has been submitted by the assessee shows the same bank account as mentioned by the Assessing Officer in his assessment order. It was the submission that the cash book of the assessee itself showed SBH. It was the submission that this could be another bank account. It was the submission that the audit has also not been done properly insofar as the audit is in the name of the individual and it does not contain name of the proprietorship concern.

11. In reply, Id AR submitted that the proprietor and proprietorship concern of the assessee both had the same PAN No. and what has been audited is of the PAN No. It was the submission that he has no objection if the issue is restored to the file of the AO to examine whether the assessee had the cash balance.

12 It was the further submission by Id Sr DR that the specific allegation of the Assessing Officer is that the assessee has accepted SBN notes in respect of his sale consideration after the date of demonetization. It was the submission that it is these specified notes which have been deposited by the assessee and same is liable to be treated as unexplained income of the assessee.

13. I have considered the rival submissions. The objection filed by Id Sr DR is in respect of Paper book contains a letter from the Assessing Officer mentioning that the cash book has not been produced before him, though the Assessing Officer in his assessment order states that the assessee furnished details and documents through e-proceedings and detailed documents submitted through e-proceedings have been verified. The crux of the arguments of Id AR is that the cash balance as on 8.11.2016 being the date of demonetization is Rs.23,69,266/-. There have been negligible sales and the assessee has not received any demonetized currency on account of the sales. The turnover of the assessee is Rs.2,82,77,677/- and the total deposit in the bank account in cash is only Rs.22,57,000/-. Thus, what becomes evident is that out of Rs.23,69,266/-, the assessee has deposited certain amounts in his bank account. The bank account as mentioned in the cash book is in respect of OD account, where the SBN Notes have been deposited differs from that as mentioned by the Assessing Officer and as shown in the letter from SBI. This being so, the issue in

regard to deposit of SBN notes is restored to the file of the Assessing Officer for examination as to whether the assessee did have the opening balance of cash as per the cash book and whether the bank account as mentioned by the Assessing Officer in his assessment order is the same bank account as mentioned by the assessee in his cash book having the erroneous name of SBH. The Assessing Officer is also at liberty to produce evidence to show that the assessee has received SBN notes during the demonetization period. Just because the assessee has deposited SBN notes during the demonetization period, it cannot be said that the assessee has received SBN notes during the period. This will have to substantially prove by the Assessing Officer and in the failure of proving the averments, no addition can be made. The Assessing Officer shall also examine whether the said bank account has been included in computing the total income and total turnover of the assessee before drawing his conclusion.

14. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 01/05/2023.

Sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 01/05/2023  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Chitaranjan Jena,  
Pubasasan, Kausal Ganga, Pipili,  
Bhubaneswar
2. The Respondent: ITO, Ward, Puri
3. The CIT(A)-NFAC, Delhi
4. Pr.CIT-, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**