

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'C' BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER

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| ITA No. 154/Bang/2023 |
| Assessment Year : 2017-18 |

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| Shri T. Sriranga (HUF), Agriculturist Megur Estate, Guddethota Post, Koppa Taluk, Chickmagalur Dist. – 577123. PAN: AACT7470B | Vs. | The Income Tax Officer, Ward -2, Chikmagalur. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri A R Vivek, Advocate .S |
| Revenue by | : | Shri Ganesh R Ghale, Advocate- Standing Counsel for Revenue |

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| Date of Hearing | : | 25-04-2023 |
| Date of Pronouncement | : | 25-04-2023 |

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 04.01.2023 passed by NFAC for A.Y. 2017-18.

2. It is noted that the only disallowance made by the Ld.AO is in respect of cash deposited in the bank accounts of the assessee amounting to Rs.46,85,140/-. Before the Ld.AO during the assessment proceedings, it was submitted that, the amount deposited by cash was out of the sale proceeds of areca nut and

pepper being agricultural income. The Ld.AO observed that, the assessee did not file any details in respect of the sale proceeds alleged to be received in cash amounting to Rs.46,85,140/- and since it was not verifiable, the addition was made in the hands of the assessee as income from unexplained sources u/s. 68 chargeable to tax u/s. 115BBE of the act.

3. Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A). Even before the Ld.CIT(A), assessee failed to furnish necessary evidence in support of the claim that the sum of Rs.46,85,140/- represents sale proceeds of areca nut and pepper and therefore this addition so made was upheld.

Aggrieved by the order of Ld.CIT(A), assessee is in appeal before this *Tribunal*.

4. Before us the Ld.AR submitted that, during the previous year being A.Y. 2016-17, there were similar circumstances, wherein the assessment was concluded accepting the return of income. He submitted that, the assessee has been carrying out agricultural activities since many years which is evidenced from the RTC copies furnished before the Ld.AO. It is the submission of the assessee that it does not have any other source of income.

5. The Ld.DR on the contrary, submitted that the cash has been deposited during the period when demonetisation was declared and therefore necessary verification has to be carried out in accordance with the circulars issued by the CBDT.

We have perused the submissions advanced by both sides in the light of records placed before us.

We find force in the argument of the Ld.DR.

6. Admittedly cash has been deposited to the current account of the assessee amounting to Rs.46,85,140/-. The only explanation offered by assessee is that the source of cash deposits are from cash sales of the business. We note that the Ld.AO while verifying the claim has not considered the circulars issued by CBDT pertaining to cash deposits during demonetisation period. We note that no specific query was raised by the Ld.AO, in respect of the cash deposits during the demonetisation period. The Ld.AO did not follow the circulars issued by the CBDT to carry out necessary verifications in respect of the genuineness of cash deposited by the assessee during the relevant time.

6.1 These instructions gives a hint regarding what kind of investigation, enquiry, evidences that the assessing officer is required to take into consideration for the purpose of assessing such cases.

6.2 Instructions dated 09/08/2019 speaks about the comparative analysis of cash deposits, cash sales, month wise cash sales and cash deposits. It also provides that whether in such cases the books of accounts have been rejected or not where substantial evidences of wide variation be found between these statistical analyses. Therefore, it is very important to note that whether the case of the assessee falls into statistical analysis, which suggests that there is a booking of sales, which is non-existent and thereby unaccounted money of the assessee in

old currency notes (SBN) have been pumped into as unaccounted money.

6.3 The instruction dated 21/02/2017 requires the assessing officer to verify basic relevant information *e.g.* monthly sales summary, relevant stock register entries and bank statement to identify cases with preliminary suspicion of back dating of cash and is or fictitious sales. The instruction has also suggested some indicators for suspicion of back dating of cash else or fictitious sales where there is an abnormal jump in the cases during the period November to December 2016 as compared to earlier year. It also suggests that, abnormal jump in percentage of cash trails to on identifiable persons as compared to earlier histories will also give some indication for suspicion. Non-availability of stock or attempts to inflate stock by introducing fictitious purchases is also some indication for suspicion of fictitious sales. Transfer of deposit of cash to another account or entity, which is not in line with the earlier history. Therefore, it is important to examine whether the case of the assessee falls into any of the above parameters are not.

6.4 The assessee is directed to establish all relevant details to substantiate its claim in line with the above applicable instructions. We are aware of the fact that not every deposit during the demonetisation period would fall under category of unaccounted cash. However the burden is on the assessee to establish the genuineness of the deposit in order to fall outside the scope of unaccounted cash.

6.5 The Ld.AO shall verify all the details / evidences filed by the assessee based on the above direction and to consider the claim

in accordance with law. Needless to say that proper opportunity of being heard must be granted to the assessee. The assessee may be granted physical hearing in order to justify its claim.

Accordingly, we direct the Ld.AO to verify the cash deposited in the light of the above circular by granting proper opportunity of being heard to the assessee.

7. We thus remand this issue to the Ld.AO to carry out necessary verification of the cash deposited in the bank account of the assessee in the light of the above circulars and instructions. Needless to say that proper opportunity of being heard may be granted to assessee by way of a physical hearing.

Accordingly all the grounds raised by assessee being common issue stands allowed for statistical purposes.

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

Order pronounced in the open court on 25th April, 2023.

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 25th April, 2023.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore