

आयकर अपीलीय अधिकरण, 'सी' (एस एम सी) न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' (SMC) BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपील सं./ITA No.: 493/CHNY/2023  
निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Raju Ravichandran,**  
7/15, Nadupatty  
Sellapampatty Post,  
Namakkal Taluk & District –  
Tamilnadu – 637 019.

**The Income Tax Officer,**  
Vs. Ward 2,  
Namakkal.

**PAN: AIOPR 7220H**  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri T.S. Lakshmi Venkatraman, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 15.06.2023  
घोषणा की तारीख/Date of Pronouncement : 16.06.2023

**आदेश /ORDER**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 15.03.2023. The assessment was framed by the Income Tax Officer, Ward 3, Namakkal for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 25.11.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the AO in making addition of specified bank notes deposited during demonetization period being not a legal tender u/s.69A of the Act amounting to Rs.16.20 lakhs and taxed u/s.115BBE of the Act. For this, assessee has raised various grounds, which need not be reproduced.

3. Brief facts are that the assessee is an individual and engaged in retail / wholesale of egg business in the name and style of 'Arav Tradings'. The assessee is having savings bank A/c. No. 1666101011943, OD A/c No.16662850000005 and CC A/c. No.16662140000001 with the Canara Bank, Namakkal and also having SB A/c. No.752053000001233 with the South Indian Bank, Namakkal during the financial year 2016-17 relevant to the assessment year 2017-18. The assessee made cash deposit i.e., demonetized cash from 08.11.2016 to 31.12.2016 during demonetization period amounting to Rs.18.51 lakhs. The assessee explains the source of deposit that being cash available as on 08.11.2016 of Rs.2,31,353/- as cash-in-hand in cash book and further claimed that the balance cash deposit is out of sale of egg and sale proceeds between 08.11.2016 to 31.12.2016 was deposited being specified bank notes of Rs.1000 & Rs.500 amounting to

Rs.16.20 lakhs. The AO has not doubted the sales but stated that receipt of the specified bank notes, being not a legal tender because trading in egg business has not come within the exempted category and he gave the following reasons:-

1. The assessee cannot accept the demonetized currency i.e. SBN of Rs.1000 & Rs.500 denomination from 09.11.2016 onwards, as the same were not a legal tender with certain exemptions as notified in the Gazette Notification of Ministry of Finance in No.2653 dated 8<sup>th</sup> November, 2016. In this notification, it has been clearly notified that the Central Government declared that the bank notes of existing series of denomination of the value of five hundred rupees and one thousand rupees (hereinafter referred to as the specified bank notes), shall cease to be legal tender on and from the 9<sup>th</sup> November, 2016.

2. In this connection, Sec 17, Sec 22 and Sec.26 of Reserve Bank of India Act, 1934, are very relevant. Section 17 of RBI Act says that making and issue of bank notes shall be one of the business of Reserve Bank of India. As per section 22 of RBI Act, RBI shall have the sole right to issue bank notes. Section 26 says that subject to sub-section (2) of Sec.26, every bank notes shall be a legal tender in any place in India in payment for the amount expressed therein and it shall be guaranteed by the Central Government. While sub-section (2) says that Central Government on the recommendation of Central Board ( it is board of RBI directors ) by notification in Gazette of India may declared any series of bank notes will cease to be legal tender from the date as noticed in Gazette and term as specified in the notification.

1. On 8<sup>th</sup> November, 2016 Central Government, through Gazette Notification No.2652 dated 8.11.2016, declared that from 9<sup>th</sup> November, 2016, Rs.500 and Rs.1000 (Specified Bank Notes) ceased to legal tender and it was subject to certain in the SBN Notes after 09.11.2016 are not valid. The assessee case does not come under the exempted category as notified by the RBI and therefore, the assessee is not allowed to receive the old SBN notes for doing the monetary transaction and enter the same into his books of account.

As the assessee continued to do trading of egg business and receiving the illegal currency i.e., specified bank notes which ceased to be legal tender w.e.f. 09.11.2016 and deposited in the bank account, the AO treated the same as unexplained cash deposit u/s.69A of the Act and taxed the same u/s.115BB of the Act. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of the AO. Aggrieved, now assessee is in appeal before the Tribunal.

4. I have heard rival contentions and gone through facts and circumstances of the case. I noted that admittedly the assessee has deposited specified bank notes of Rs.16.20 lakhs out of the demonetized cash notes in the denomination of Rs.1000 & Rs.500 received by him on account of sale proceeds of wholesale / trading of egg business from 09.11.2016 to 31.12.2016. The assessee is barred from dealing in trading of any illegal tender and assessee cannot accept the demonetized specified bank notes even during his trading because it is completely barred by Central Government of India declaring that the bank notes of existing series of denomination of Rs.1000 & Rs.500 shall ceased to be legal tender on or from 09.11.2016. This has been notified by Central Government in the Gazette Notification of Ministry of Finance vide No.2652 dated

08.11.2016. Once the Central Government has notified that the denomination of Rs.1000 & Rs.500 notes is not legal tender w.e.f. 09.11.2016, nobody can engage in trading through this currency, hence, the AO has rightly added the same u/s.69A of the Act and the CIT(A) has rightly confirmed the same. I uphold the orders of the lower authorities and dismiss this appeal of assessee.

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

Order pronounced in the open court on 16<sup>th</sup> June, 2023 at Chennai.

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 16<sup>th</sup> June, 2023

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|---------------------|
| 1. अपीलार्थी/Appellant  | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त /CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF.        |                     |