

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' (SMC) BENCH, CHENNAI**

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

आयकर अपील सं./ITA No.: **232/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2017-18

**M/s. PR Senthilraja (HUF),**  
8, Kamarajapuram,  
2<sup>nd</sup> Street,  
Pudukkottai – 622 001.

**The Income Tax Officer,**  
Vs. Ward-1,  
Pudukkottai.

**PAN: AALHP 7231B**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Girish Kumar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 03.07.2023

घोषणा की तारीख/Date of Pronouncement

: 31.07.2023

**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 order No. ITBA/NFAC/S/250/2021-22/1037167363(1) dated 24.11.2021. The assessment was framed by the Income Tax Officer, Ward 1, Pudukkottai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') vide order dated 30.12.2019.

2. At the outset, it is noted that this appeal is time barred by limitation by 29 days and the assessee has filed petition for condonation stating the reason that the delay is actually of 268 days and the assessee has undergone a major surgery. For this, the assessee stated reasons in his petition as under:

*"The delay of 268 effective days in filing the appeal was neither willful nor deliberate but due to circumstances beyond my control. The Petitioner/Appellant had faced medical complications leading to multiple hospitalization and in the process, the impugned order was not handed over to the CA S. Thiyagarajan for taking further action in filing appeal to Appellate Tribunal.*

*In these circumstances only after recovering from the medical issues (January 2023) faced by the appellant including undergoing major surgery for lateral internal sphincterotomy and hemorrhoidectomy in the month of May,2022, the order was handed over to the CA who inturn with the help of Counsel on record prepared the appeal on 17.02.2023 and the said appeal was finally filed on 21.02.2023 in the Registry of Appellate Tribunal.*

*In such circumstances, it is prayed that the medical issues faced by the Petitioner/Appellant may be considered as a reasonable cause for the belated filing of the captioned appeal, justifying the plea for admission and for adjudication of issues on merits."*

The assessee has also supported the petition by affidavit.

3. When this was pointed out to Ld. Senior DR, he could not controvert the contents of the petition. After hearing both the sides, I am of the view that cause seems reasonable and therefore, I condone the delay, because the assessee was undergone through the major surgery for lateral internal sphincterotomy and hemorrhoidectomy in the Month of May, 2022. Hence, the delay

occurred due to reasonable cause and I condone the delay and admit the appeal.

4. The only issue in this appeal of assessee is as regards to the order of CIT(A) in confirming the action of the A.O in sustaining the addition Rs. 6,63,000/- being cash deposit in Specified Bank Notes (SBNs) as unexplained cash credits u/s. 68 of the Act and charging the tax u/s. 115BBE of the Act. For this, the assessee has raised various grounds, which need not be reproduced.

5. I have heard the rival contentions and gone through the facts and circumstances of the case. The A.O during the course of assessment proceedings noticed that the assessee has deposited a sum of Rs. 11,63,000/- as SBNs in demonetization currency during demonetization period in assessee's bank accounts as under:

<i>Sl. No</i>	<i>Name of the Bank</i>	<i>A/c No.</i>	<i>Total amount of cash deposits in "Specified Bank Notes (SBNs)" (Demonetized Currency)</i>
<i>1.</i>	<i>Axis Bank</i>	<i>914020048797043</i>	<i>Rs. 1,87,000/-</i>
<i>2.</i>	<i>ICICI</i>	<i>611401511570</i>	<i>Rs. 500/-</i>
<i>3.</i>	<i>CUB</i>	<i>040109000163601</i>	<i>Rs. 21,500/-</i>
<i>4.</i>	<i>CUB</i>	<i>512120020010827</i>	<i>Rs. 7,90,000/-</i>
<i>5.</i>	<i>IDBI</i>	<i>109610200001694</i>	<i>Rs. 1,62,000/-</i>
		<i>Total</i>	<i>Rs. 11,63,000/-</i>

6. The assessee before A.O explained that the assessee closing cash in hand at the midnight of 08.11.2016 as Rs. 21,53,708/- and out of that the assessee has deposited this cash in assessee's bank accounts as noted above. The assessee furnished details of cash deposit and stated that these are accounted in the books of accounts and the books of accounts are audited accounts. The A.O noted that in response to online query, the assessee admitted the cash in hand is only Rs. 5,65,200/- and thereby, he accepted the cash deposit as explained in the form of SBNs at Rs. 5,00,000/- and treated the balance as unexplained cash credit u/s. 68 of the Act at Rs. 6.63 Lakhs. For this, the A.O observed as under:

*"In the online response to the "Cash Transaction 2016" the assessee has admitted cash in hand of Rs.5,65,200/- only for the source of the cash deposits during demonetisation period. Out of the above, an amount of Rs.5,00,000/- is treated in the form of SBNs and the same is considered as source for the cash deposits in SBNs during the demonetisation period. The balance amount of Rs.6,63,000/- is treated as unexplained cash credit in the books of the assessee and accordingly added to the income of the assessee u/s 68 r.w.s. 115BBE of the Income Tax Act, 1961."*

Aggrieved, the assessee preferred appeal before CIT(A).

7. The CIT(A) simpliciter confirmed the action of the A.O by observing in Para 6 & 6.1 as under:

*"6. I have carefully considered the action of the Assessing Officer and the submissions of the appellant. I have noted that the appellant has admitted that SBN amount of Rs.11,63,000/- were deposited in the bank account during the demonetisation period. During the assessment*

*proceedings, appellant sought to explain the source of the above as being Rs.5,65,200/- from earlier income or savings. I have also noted that after due consideration and after observing the opening cash in hand on 01.04.2014 (Rs.1,92,368/-) on 01.04.2015 (Rs.4,16,500), on 01.4.2016 (Rs.7,94,561), the Assessing officer has not accepted cash in hand shown at Rs.21,53,708/- on 08.11.2016. After due consideration, I find the action of the Assessing officer in treating Rs.5,00,000/- of SBN being from earlier savings and considering only the remaining SBN deposited in the bank amounting to Rs.6,63,000/- as unexplained reasonable.*

*6.1 With the above observations, I do not find any need to interfere with the order of the Assessing Officer."*

Aggrieved, the assessee is in appeal before the Tribunal.

8. I noted that the assessee is able to explain that his closing cash as on 08.11.2016 in its books of accounts is Rs. 21,53,708/- which is not denied by Revenue now. In view of the above, I accept the cash as cash balance as on 08.11.2016 and treat the entire cash deposit at Rs. 11,63,000/- as explained. I delete the addition and direct the A.O accordingly.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced on 31<sup>st</sup> July, 2023 at Chennai.

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 31<sup>st</sup> July, 2023

**EDN**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.