

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

श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष

**BEFORE SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **162/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2017-18

Arul Rathanam, Income Tax Officer,  
Door No. 355, New No. 249B, v. Ward 1,  
Sengodampalayam Street 2, Tiruchengode.  
Tiruchengode TK Namakkal DT,  
Tamil nadu – 637 209.

**[PAN: BBPPR-0711-J]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : None

प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 31.07.2023

घोषणा की तारीख/Date of Pronouncement : 04.08.2023

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 13.12.2022 and pertains to assessment year 2017-18.

2. The assessee has raised the following grounds of appeal:

*"1. On the facts and circumstances of the case , the order of CIT(A) ,NF AC, Delhi dated 13.12.2022 is opposed to the facts of the case and is not legally maintainable.*

2. On the facts and circumstances of the case, the learned CIT(A) is not justified in sustaining the addition of Rs.10,47,000 u/s 69A r.w.s.115BBE of the Act.

3. On the facts and circumstances of the case, the above deposit was made out of LIC policy benefits received by the appellant on the death of her husband on 21.06.2016 . The LIC policy benefits were credited to the Axis Bank of the appellant in the months of July 2016 and August 2016 and were withdrawn in cash in the month of August 2016 . The above withdrawals were deposited in the above bank accounts on 19.11.2016 to an extent of Rs.5,00,000/-, on 24.11.2016 to an extent of Rs.5,42,000/- on 20.12.2016 to an extent of Rs.5,000/-..In view of availability of definite sources for the deposits of SBN's the above addition sustained by the First Appellate Authority needs to be deleted .

4. In view of the above grounds and other submissions to be made at the time of Appeal hearing, the order of AO which has been affirmed by the First Appellate Authority to an extent of Rs.10 47 000/- may be deleted and justice rendered.”

3. The brief facts of the case are that, the assessee is engaged in the business of bore-well drilling, has not filed its return of income for the assessment year 2017-18 within the time allowed u/s. 139(1) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). The information with the Assessing Officer reveals that the assessee has made cash deposits of Rs. 10,47,000/- into his bank account during demonetization period. In order to verify the genuineness of the cash deposits, notice u/s. 142(1) of the Act, dated 09.03.2018 was issued, calling the assessee to provide the true and correct return of income. The assessee did not file any return of income in response to 142(1) notice. In the mean time, letters were sent to all banks in Tiruchengode Branch calling for bank account

statements of the assessee. Subsequently, the assessee has filed return of income on 14.05.2019, and declared income from business at Rs. 3,21,462/- as per the provisions of section 44AD of the Act. The Assessing Officer, called upon the assessee to file necessary details and source in respect of cash deposits during demonetization period. Since, the assessee did not file necessary source and details for cash deposits, the Assessing Officer has made addition of Rs. 10,47,500/-, u/s. 69A of the Act as unexplained money and levied tax u/s. 115BBE of the Act.

4. The assessee carried the matter in appeal before the first appellate authority. Before the Id. CIT(A), the assessee neither appeared nor filed any details which is evident from Para 4 of CIT(A) order, where the appellate authority had given four dates of hearing, but there was no response from the appellant. Therefore, the Id. CIT(A), after considering relevant facts partly allowed appeal filed by the assessee, where the CIT(A) confirmed the additions towards cash deposits during demonetization period u/s. 69A of the Act, however, allowed relief in respect of additions made by the Assessing Officer towards business income and computed tax u/s. 115BBE of the Act. Aggrieved by the CIT(A) order, the assessee is in appeal before us.

5. None appeared for the assessee. We have heard the Id. DR, perused the materials available on record and gone through orders of the authorities below. Admittedly, the assessee neither appeared before the AO nor filed any details to justify source for cash deposits during demonetization period in specified bank notes. Further, the assessee not even appeared before the first appellate authority and filed necessary details to justify source for cash deposits. From the above, it is very clear that the assessee is not seriously pursuing its case before the lower authorities, but fact remains that the assessee is in the business of bore-well drilling and predominant receipts from his business is in cash going by the nature of the assessee. Further, the assessee has filed a belated return and declared total receipts from business at Rs. 40,18,270/- for the impugned assessment year and estimated 8% profit as per the provisions of section 44AD of the Act. There is no clarity whether the alleged cash deposit in specified bank notes is included in gross turnover reported by the assessee or not. Even, the Assessing Officer has not verified this aspect. If cash deposits in specified bank notes is already included in gross receipts then said cash deposits needs to be excluded for the purpose of estimation of profit. Further, the source for cash deposit in specified bank notes is also not explained by the assessee. Therefore, we are of the

considered view that, the issue needs to go back to the file of the Assessing Officer for providing one more opportunity of hearing to the assessee. Thus, we set aside the order passed by the Id. CIT(A) and restore the issue back to the file of the Assessing Officer and direct the Assessing Officer to reconsider the issue after providing one more opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the Assessing Officer and file necessary details in respect of source for cash deposits.

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

Order pronounced in the court on 04<sup>th</sup> August, 2023 at Chennai.

**Sd/-**

(मंजुनाथ. जी)

**(MANJUNATHA. G)**

लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 04<sup>th</sup> August, 2023

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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