

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL

INDORE SMC BENCH, INDORE

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER

ITA No.266/Ind/2023
(Assessment Years:2017-18)

Shri Rajendra Singh Tawar 763 Solsinda Sanwer Indore	Vs.	ITO 1(1) Indore
(Appellant / Assessee)		(Revenue)
PAN: AEVPT 5691P		
Assessee by	Shri Manjeet Sachdeva & Avinash Gaur, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.11.2023	
Date of Pronouncement	22 .11.2023	

ORDER

This appeal by the Assessee is directed against the order dated 18.05.2023 of Commissioner of Income Tax(Appeal), National Faceless Appeal Centre, Delhi for Assessment Year 2017-18. The assessee has raised following grounds of appeal:

“01. That the learned CIT (A) National Faceless Appeal Centre ignored the submission of the assessee to direct the AO to verify the actual facts, which was ignored.

02. That the AO as well as the CIT(NFAC) failed to consider the fact regarding the assessee being authorised by Central Bank of India to collect the funds from farmers/ villagers.

03. That the CIT(NFAC) ignored the fact that the Ministry of Finance for banking sector authorised the appointing 'Bank Mitra' aka "Kiosk Centre".

04. That the CIT(NFAC) ignored the submission that the appellant could not respond in an appropriate manner and that a mail regarding the activity was sent by the Bank.

05. That the CIT (NFAC) further erred in not perusing the bank statement filed during the course of appellate proceedings.
06. That the AO had the copies of the bank accounts and that the assessee had filed a reply on ITBA AIMMS portal regarding the working for Central Bank of India. The CIT(NFAC) ignored this fact of filing a reply when the AO has denied receiving any reply.
07. That the AO has erred to making addition under section 69A of the Income tax Act, 1961.
08. That the CIT(NFAC) erred in confirming the addition made by the AO amounting to Rs. 2688667/- Without appreciating the submission.
09. That the assessee craves leave to add, alter, amend and/or delete any grounds of appeal.”

2. The solitary issue raised by the assessee is regarding the addition made by the AO in respect of cash deposited in the bank account during the demonetization period u/s 69A of the Act which was confirmed by the CIT(A). Ld. AR of the assessee has submitted that the assessment was completed u/s 144 without considering reply and relevant documents filed by the assessee in response to the summons issued by the AO u/s 131 of the act. He has referred to the page no.1 of the paper book and submitted that the assessee has submitted its reply to summons issued u/s 131 on 20.03.2018 but the AO has passed ex-parte order without considering the said reply and evidence of source of cash deposited during the demonetization as well as bank account statement filed by the assessee. The assessee was working as Bank Mitra/Business Correspondent (BC) known as Kiosk Centre under Sub Service Area (SSA) scheme of Government of India, Ministry of Finance for banking Sector under which various nationalized bank have started Bank Mitra to serve the villages throughout the country pinpointing the service areas of each bank to have at least one fixed point of service, catering to 1000 to 1500 households in the rural area. Accordingly all the nationalized banks tied up with eligible companies having good net worth and track record to provide the service under the scheme (SSA). The assessee who was earlier an agriculturist decided to work as SSA and also undergone course and passed the exam of Indian Institute of Banking and Finance before he was selected by the Central Bank of India to work under SSA scheme through

principal eligible company M/s. Synapse Solution Pvt. Ltd. The assessee was appointed as SSA of Dhan Khedi Tehsil Dist. Indore which was allotted to Central Bank of India Dharampuri branch. He has referred to letter dated 08.01.2016 of Regional Office Indore of Central Bank of India whereby the Indore region was allotted to M/s. Synapse Solution Pvt. Ltd. He has then referred letter dated 19.03.2018 of Central Bank of India placed at page no.13 of the paper book and submitted that the bank has certified that the assessee was working as BC/Bank Mitra having OD account number with the bank for carrying out the transactions under the said scheme. Thus Ld. AR has submitted that all the transactions in the said OD account are related to the households covered by the said scheme and catered by the bank through the assessee.

3. Ld. AR has referred to the bank account statements placed at page no.58 to 298 of the paper book and submitted that all the transactions in the bank account are relating to the services provided by the bank to these persons in the rural area covered under the SSA Scheme. Thus, Ld. AR has submitted that without considering relevant record the AO has made this addition. The CIT(A) has also not verified the record and rejected the claim of the assessee as well as books of account on suspicion. He has submitted that the assessee has produced the books of account duly audited but neither the AO nor the CIT(A) has considered the accounts. He has relied the judgment of Hon'ble Supreme Court in case of CIT vs. Daulat Ram 87 ITR 349 (SC) as well as in case of D.N. Singh vs. CIT 454 ITR 595 and submitted that when the amount deposited in the bank account does not belong to the assessee then the same cannot be assessed to tax in the hands of the assessee. Thus, Ld. AR has submitted that the addition made by the AO and confirmed by the CIT(A) is highly unjustified and arbitrary when the assessee produced relevant record to establish that all these deposit were made by the assessee in the capacity of Bank Mitra and the money did not belong to the assessee. The said money was deposited in the OD account specifically open for carrying out the transactions under SSA Scheme. Therefore, treating the said

deposit as unexplained income of the assessee is contrary to the record and facts.

4. On the other hand, ld. DR has submitted that the assessee has filed voluminous record in support of the claim that these deposit in the bank account are made on behalf of the other persons under the SSA Scheme and the money did not belong to the assessee which is required to be verified and examined at the level of the AO. The assessee has referred to the reply dated 20.03.2018 but the scrutiny proceedings were initiated by the AO by issuing notice u/s 143(2) on 14th August 2018 therefore, the said reply is not filed in the assessment proceedings and hence, the same was not available with the AO.

5. I have considered rival submissions as well as relevant material on record. The assessment was completed by the AO u/s 144 of the Act due to non-appearance and participation of the assessee in the assessment proceedings. The AO has made addition of Rs. 26,88,667/- u/s 69A of the Act on account of cash deposit made by the assessee in the bank account during demonetization period. Thus, there was no material available before the AO in support of the claim that these deposits were made under SSA scheme of the Government under which the banks were to provide services by hiring the other eligible companies and individuals to work as bank Mitra/BC. Object of the scheme was to cater the banking services in the rural area and covers all 6 lac villages throughout the country. The assessee has produced relevant documentary evidence to show that the assessee was engaged as bank Mitra under the said scheme and Central Bank of India has engaged M/s. Synapse Solutions Pvt. Ltd. as principal under which the assessee was working as bank Mitra of Central Bank of India for Indore District. It is clear from the Bank account statement that the account in question is an OD account for business correspondent which clearly shows that this account was specifically opened to provide banking services in the rural area and all the transactions to be carried out through this account. The bank provided OD facility for this purpose and assessee was not required to keep any

deposit in the bank account but the transactions of providing financial assistance to underserved rural areas under SSA scheme and amount collected from them is to be deposited in the said account. The AO has made addition in respect of the deposit made during the demonetization period without doubting the deposit made during the other period of the financial year under consideration. It is pertinent to note that the AO has not pointed out anything about abnormal deposit during this period in comparison to regular deposit made during the entire year. Therefore, only in the case where an abnormal deposit is made during the demonetization period in comparison to the deposit made for the rest of the year the AO was required to conduct a deeper inquiry to find out the correct facts and truth.

5.1 As per the bank account statements filed by the assessee prima facie it appears that the transactions of deposit and transfer/withdrawal are regular throughout year and therefore, it requires a proper verification whether there is any abnormal deposit during the demonetization period or not. Secondly, the assessee has produced all the relevant documentary evidence to show that the assessee was working as bank Mitra/Business Correspondent under the Sub-Service Area (SSA) Scheme and therefore, deposit in the bank account as well as withdrawal/transfer from the bank account are mostly related to providing banking service to rural household under the said scheme. Though Ld. AR of the assessee has submitted that the assessee filed a reply dated 20.03.2018 in response to the summons u/s 131. However, the scrutiny assessment proceedings were initiated only in the month of August 2018 vide notice u/s 143(2) dated 14th August 2018 and therefore, the said reply of the assessee was not filed during the assessment proceedings and may be in the proceedings u/s 143(1) of the Act and that too after the return of income was processed u/s 143(1) on 13.03.2018. Therefore, the said reply appears to have been filed after processing u/s 143 was over and thereby could not have been considered even at the time of processing. The CIT(A) has rejected this explanation and contention of the assessee by suspecting correctness of

the same as self-serving statement of the assessee without supporting evidence. It is clear from the impugned order that the CIT(A) has not verified and examined the relevant record but the explanation of the assessee was rightly rejected on the ground that the assessee did not produce any record or supporting evidence before the AO. Accordingly in the facts and circumstances of the case and interest of justice the impugned order of the CIT(A) is set aside and the matter is remanded to the record of the AO for fresh adjudication of the same after proper verification and examination of the documentary evidence filed by the assessee in support of the claim that the deposit in the bank account made on behalf of the rural household under the SSA scheme. Needless to say the assessee be given an appropriate opportunity of hearing before passing fresh order.

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

Order pronounced in the open court on 22.11.2023.

Sd/-

(VIJAY PAL RAO)

JUDICIAL MEMBER

Indore; दिनांक Dated : 22/11/2023

Patel/Sr. P.S.

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Sr. Private Secretary

ITAT, Indore