

आयकर अपीलीय अधिकरण, 'ए'(एस एम सी) न्यायपीठ,चेन्नई
**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.: **927/CHNY/2023**
निर्धारण वर्ष/Assessment Year:2017-18

Shri Basavaraj Ramesh,
27/28, Pulligunta Village,
Thogarapalli Post, Bargur Taluk,
Krishnagiri – 635 203.

The Income Tax Officer,
Vs. Ward 1,
Krishnagiri.

PAN: ACTPR 3378M
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri M. Karunakaran, Advocate
: Shri G.Suresh, JCIT

सुनवाई की तारीख/Date of Hearing : 01.01.2024
घोषणा की तारीख/Date of Pronouncement : 01.01.2024

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 in Order No.ITBA/NFAC/S/250/2023-24/1054656999(1) dated 27.07.2023. The assessment order was passed by the Income Tax Officer, Ward-1, Krishnagiri for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 09.12.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of AO in treating the cash deposit in assessee's savings bank accounts maintained with Bank of India, State Bank of India and Union Bank of India during the demonetization period in Specified Bank Notes (SBNs) as unexplained investment u/s.69 of the Act amounting to Rs.15,96,500/-. For this, assessee has raised various grounds which are explanatory, factual, and argumentative and hence, need not be reproduced.

3. I have heard rival contentions and gone through the facts and circumstances of the case. I noted that the assessee is an individual earning interest income from money lending and agricultural income. The AO noted that the assessee has deposited cash during demonetization period which is brought out in para 3 of the assessment order at pages 2 & 3, total cash deposit in three savings bank accounts amounting to Rs.18,46,500/-. The AO required the assessee to explain the cash deposit of Rs.18,46,500/- in demonetized currency and the assessee explained that the same is income earned from agricultural activity. The assessee in support of agricultural income filed land holding details and claimed that he owns 13.53 acres of land in villages in Krishnagiri Taluk and

accordingly, he filed patta, chitta, adangal and other details. The assessee also filed the claim of agricultural income and return filed after the period of demonetization and AO brought out the same in his assessment order in chart at para 5, which is being reproduced as under:-

<i>A.Y.</i>	<i>Date of filing of Return of income</i>	<i>Income Returned Rs.</i>	<i>Agricultural Income Rs.</i>	<i>Remarks</i>
<i>2014-15</i>	<i>NIL</i>	<i>2,65,000</i>	<i>2,40,000</i>	<i>ROI not filed</i>
<i>2015-16</i>	<i>26.11.2016</i>	<i>3,14,200</i>	<i>8,10,000</i>	<i>ROI filed</i>
<i>2016-17</i>	<i>26.11.2016</i>	<i>4,27,820</i>	<i>11,62,000</i>	<i>ROI filed</i>
<i>2017-18</i>	<i>12.07.2017</i>	<i>3,23,260</i>	<i>9,60,000</i>	<i>ROI filed</i>

The AO accepted the cash deposit of Rs.2.50 lakhs in SBNs and balance of Rs.15,96,500/- was treated as unexplained investment u/s.69 of the Act and taxed the same as per the provisions of section 115BBE of the Act. Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) did not believe the increase in agricultural income from Rs.2.40 lakhs in financial year 2013-14 to Rs.8.10 lakhs in financial year 2014-15 to Rs.11.62 lakhs in financial year 2015-16 and to Rs.9.60 lakhs in financial year 2016-17. According to CIT(A), cash was deposited in three bank accounts in different bank branches and spread over period of one month on various days.

Applying the test of human probabilities, he confirmed the addition. Aggrieved, assessee is in appeal before the Tribunal.

5. I noted that there is every possibility of earning of agricultural income but the assessee is unable to file any details like crop grown or the crop sold in market and in what rate. It is not doubted that assessee is holding agricultural land to the extent of 13.53 acres and claim of assessee was that Mango was grown in this land and he has declared the agricultural income in the returns of income as noted above. I cannot doubt that assessee is not having agricultural income but not to that extent, what he has claimed. Hence, I make a fair estimate of agricultural income and treat cash deposit partly as explained and partly as unexplained. Going by the circumstances and theory of human probabilities and the fact is that assessee is holding agricultural land and growing mangoes in this land, which is supported by adangal, chitta and VAO certificates, I estimate the agricultural income annually at Rs.5 lakhs for these three years i.e., financial years 2015-16, 2016-17 & 2017-18 that means, assessee is having availability of Rs.15 lakhs of cash, out of this, assessee might have incurred household expenses and used the cash for household expenses. I estimate the household expenses at Rs.5 lakhs and the balance cash available with the assessee for depositing in the bank

account, which he deposited during demonetization period. Hence according to me, out of cash deposit of Rs.18,46,500/-, the assessee is having cash-in-hand of Rs.10,00,000/- plus Rs.2,50,000/- accepted by AO i.e., total cash available is Rs.12,50,000/- out of Rs.18,46,500/-. Hence, balance cash of Rs.5,96,500/- be treated as unexplained and to that extent, this addition is confirmed as per the provisions of section 69A of the Act. Accordingly, the appeal of the assessee is partly-allowed.

6. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court at the time of hearing on 1st January, 2024 at Chennai.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 1st January, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.