

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

ITA No.980/Bang/2023
Assessment year : 2017-18

Nagaraj Gowdanahalli Ramappa, G.R.N. Traders, No.40, 2 nd Main Road, New Tharagupet, Bengaluru – 560 053. PAN: AGEPR 4291G	Vs.	The Assistant Commissioner of Income Tax, Circle 2(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri T.S. Shiva Kumar, CA
Respondent by	:	Shri Subramanian, S., Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	15.01.2024
Date of Pronouncement	:	15.01.2024

ORDER

Per Chandra Poojari, Accountant Member

This appeal is filed by the assessee against the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] order dated 04.10.2023 passed u/s. 250 of the Act for the assessment year 2017-18.

2. The assessee has raised the following grounds:-

“1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. The learned CIT(A) ought to have provided proper opportunity before deciding the appeal.

3. The learned CIT (A) ought to have sent the notices to proper email which is as provided in the Form 35 filed before CIT(A), which resulted in non delivery of notice on time to the appellant.

4. The learned CIT(A) ought to have seen that the appellant is in the business of retail and wholesale trade of Edible oil including Vanaspathi, ghee and salt along with other provision items and has substantial turnover, and the advances received from parties which are duly accounted in books of accounts, and the same has been deposited to bank, which should have been considered before deciding the appeal.

5. The learned CIT(A) ought to have seen that the amount deposited into the bank account during the demonetisation period represents the business receipt and therefore, should not have been treated as income of the assessee particularly as income assessable u/s 69A of the I.T Act.

6. Any other ground that may be urged at the time of hearing”

3. The assessee is an individual engaged in the business of Trading in Edible Oil including vanaspathi, ghee and salt under the name and style of M/s. G R N Traders. The assessee derived the income from various sources and filed the income tax return declaring the taxable income of Rs.14,44,790.

4. The case was selected for scrutiny under CASS and statutory notices issued. The assessee filed replies to the notices. Consequent upon a change in AO, notice was received on 21/11/2019 and the assessee submitted all the details called for. Another notice dated 21/12/2019 asking certain specific details of cash deposits made during December, 2016 and details of SBNs deposited during the demonetisation period. The assessee replied that assessee has

maintained in his books of accounts closing balance of SBNs in cash in hand as on 8.11.2016 and explained that assessee has never received any SBN notes after 9.11.2016. The assessee appeared before the AO and submitted about the comparison of wrong figures with the statements from Bank. However, the AO made an addition of the difference amount of Rs.60,13,500 (1,15,13,500 – 55,00,000) in SBNs as unexplained amount deposited in SBNs.

5. On appeal, the CIT(Appeals) called for details of names and parties from whom advances were received in cash and also confirmations. Since the assessee did not reply despite several opportunities, the CIT(Appeals) dismissed the appeal of the assessee. Against this, the assessee is in appeal before the Tribunal.

6. We have heard both the parties and perused the material on record.. The assessee has deposited Rs. 1,15,13,500 in SBNs into various bank accounts and was not able to explain the source of Rs. 60,13,500. Hence the AO made the addition of Rs.60,13,500 as unexplained credit u/s. 68. The assessee carried the matter in appeal before the CIT(Appeals). The CIT(Appeals) called for details of names and parties from whom advances were received in cash and confirmations from the assessee and despite several opportunities, the assessee failed to furnish the same. Hence the CIT(Appeals) dismissed the appeal of the assessee. The Id. AR submitted that the assessee is not well versed in the proceedings in the Income Tax portal and having no knowledge about it, the assessee was unable to respond to the

notices sent by the portal. He submitted that an opportunity of hearing before the revenue authorities may be given to the assessee to properly represent its case. We accede to the request of the Id. AR in the interest of justice and remit the entire issue to the file of Assessing Officer with a direction to examine the issue in the light of CBDT Circulars dated 21.2.2017, 3.3.2017, 5.11.2017 & 9.8.2019 and decide the issue as per law, after giving reasonable opportunity of being heard to the assessee. The assessee is also directed to respond to the notices of the revenue and furnish all the evidence in support of its case for early disposal of the case.

7. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Pronounced in the open court on this 15th day of January, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 15th January, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.