

**आयकरअपीलीयअधिकरण, 'सी,न्यायपीठ,चेन्नई**  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' (SMC) BENCH : CHENNAI  
श्रीमहावीर सिंह, उपाध्यक्षएवंश्री मंजुनाथ.  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकरअपीलसं./I.T.A. No.511/CHNY/2023  
निर्धारणवर्ष /Assessment year :- 2017-2018

MoongilmaduvuDharmarajuSambath,  
3/589, 8<sup>th</sup> Cross Bharathi Nagar,  
Arasanatty, SIPCOT-1,  
Hosur 635 126.

**Vs.** The Income Tax Officer,  
Circle I,  
Hosur.

[PAN AMUPS8866Q

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थीकीओरसे/ Appellant by

: Shri. N. Arjunraj, C.A.

प्रत्यर्थीकीओरसे /Respondent by

: Shri. G. Suresh, IRS, JCIT.

सुनवाईकीतारीख/Date of Hearing

: 02.01.2024

घोषणाकीतारीख /Date of Pronouncement

: 10.01.2024

**आदेश / O R D E R**

This appeal by 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/250/2022-23/1043086620(1) dated 20.05.2022. The assessment was framed by the Assistant Commissioner of Income Tax, Circle 1, Hosur for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 27.12.2019.

2. At the outset, it is noticed that this appeal was time barred by 269 days and assessee has filed condonation petition supported by affidavit. Assessee contended that the delay in filing the appeal was due to the reason that assessee had suffered fracture in right disclosed ruximal tibia in the month of July, 2022. The relevant details are in the petition which reads as under:-

*"The delay in filing the present appeal is neither willful nor deliberate but due to circumstances beyond the control of the appellant. The Petitioner / Assessee had suffered from a Right Disclosed Ruximal Tibia Fracture in the month of July 2022 and subsequently the Petitioner / Assessee was availing medical treatment of Conservative Management from Gunam - Super Speciality Hospital. The medical certificate issued by the Hospital is enclosed herewith. The injury sustained by the Petitioner / Assessee coupled with frequent visits to the Hospital had resulted in the Petitioner / Assessee not noticing the passing of the impugned order. Subsequently, the passing of the impugned order was noticed by the Petitioner / Assessee when the Petitioner / Assessee had received recovery notice from the Income Tax Officer in the month of April, 2023".*

3. Ld. Counsel for the assessee stated that the order of the Id. CIT(A) dated 20.05.2022 was received on the very same day but assessee could not file the appeal because he was under medication due to fracture and he was not in a position to move. When this facts were confronted to Id. Departmental Representative, he could not controvert the above facts. By going through the reasons, I find that cause is reasonable and hence I condone the delay and admit the appeal for adjudication.

4. The only issue in this appeal of the assessee is as regards to the Id. CIT(A) confirming the action of the Id. Assessing Officer in making addition of cash deposits made during demonetization period of specified bank notes amounting to ₹19,53,500/- as unexplained money u/s. 69A of the Act. For this assessee has raised ground Nos. 1 to 10 which are argumentative and exhaustive, hence need not be reproduced.

5. I have heard rival contentions and gone through facts and circumstances of the case. I noted that assessee is a contractor carrying on the business of running hotels at Hosur. The case was selected for scrutiny assessment for a reason that assessee had made cash deposits of specified bank notes during demonetization period amounting to ₹28,15,500/-. Assessee was asked to explain the source. Assessee has disclosed closing balance as on 08.11.2016 at ₹8,61,554/- and hence given credit to the same. Id. Assessing Officer assessed the balance cash of ₹19,53,500/- as unexplained income of the assessee u/s.69A of the Act and taxed the same u/s.115BBE of the Act. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

6. The Id. CIT(A) confirmed the action of the Id. Assessing Officer by observing in paras 7.2 to 7.4 as under:-

*'7.2 Finding on Ground of Appeal No. 1*

- a) *The basic contention of Appellant was that this amount of Rs.19,53,500/- was collection from lodge and customers. In support a cash book statement of the demonetization period was filed. It was stated to be*

*from regular cash from business of Appellant. Cash of business from earlier day is deposited in the bank account on the next day. In support the Appellant filed copy of cash book of the demonetization period. However, no documentary evidence was filed to support the cash book entries.*

*7.3 a) The contention of the Appellant is not acceptable due to following reasons:*

*. After 09.11.2016 the Central Govt. withdrew the legal tender status of SBN's of Rs.500 and Rs.1000 and they were mere pieces of paper.*

*. These SBN's could only be re-deposited in the bank or they will continue to be legal tender only for limited purposes payments at Petrol Pumps, gas agencies etc. For all other purposes these SBN's of Rs.500 and Rs.1000 were no longer a legal tender w.e.f. 09.11.2016 as per Central Government's Notification in SO No. 3407(E) dated 08.11.2016. Appellant is not one of the entities authorized by Central Govt to accept these SBN's during the demonetization period in exchange of goods/services.*

*The above facts show that Appellant was not supposed to accept these SBN's as they had lost their value and were not qualified for public transactions KIMEN ENT*

*● Business proceeds received in such SBN's are invalid and are not qualified to be called/recorded as receipts from hotel/lodge business. Such sales/receipts are void and non-est in eyes of law as the Central Govt. had withdrawn the legal tender status of SBN's w.e.f. 09.11.2016.*

*b) The two limbs of Section 69A are attracted in the present case because of the following reasons:-*

*. Appellant was not able to explain the nature and source of cash deposits in his bank account.*

*. Sale proceeds received in such SBN's during demonetization eriod and recorded in books are invalid and are not qualified to be called/recorded as sales in books of accounts. Such sales recorded are void and non-est in the eyes of law as Central Govt. had withdrawn the legal tender of status of such SBN's w.e.f. 09.11.2016. Appellant is not one of the entities authorized by the Central Govt. to accept such SBN's during demonetization*

*period in exchange of goods/services and to record them as sale proceeds in the books of accounts.*

*7.4 In view of the facts outlined in para 7.2 and 7.3 of this order, the addition made by the AO of Rs.19,53,500/- u/s 69A r.w.s. 115BBE of Act is hereby confirmed and upheld. Ground of Appeal No. 1 is dismissed”.*

Aggrieved, now the assessee is in appeal before us.

7. Before me, Id. Counsel for the assessee filed comparative turnover statement including gross profit and net profit of previous year i.e. 2016-17 and preceding previous year i.e. 2015-2016. He drew my attention to form 3CD filed alongwith return of income and the details are as under:-

No.	Particulars	Previous year			Preceding previous year		
a	Total turnover of the assessee	17153452			23250020		
b	Gross Profit/ Turnvoer	7248866	17153452	42.26%	7672948	23250020	33%
c	Net Profit	6978834	17153452	40.68%	1385304	23250020	5.96%
d	Stock-in-trade / Turnover		17153452	%		23250020	%

He argued that the turnover has actually reduced in this year and the turnover is merely ₹1,71,53,452/- and there is no increase as in demonetization period. However, Id. Counsel for the assessee fairly

agreed that estimation can be made because he has already included this cash deposits made in specified bank notes in its turnover. I note that this argument cannot be accepted because assessee failed to file any evidence except the return of income for the assessment year 2017-2018, statement of total income, audited financial statement and tax audited report. Assessee is unable to show how this cash deposits of specified bank notes deposited during demonetization period is included in the total turnover. As the assessee failed to produce any evidence, I uphold the order of the Id. CIT(A) and that of the Id. Assessing Officer and dismiss the appeal of the assessee.

**8.** In the result, the appeal of the assessee in ITA No.511/Chny/2023 for assessment year 2017-2018 stands dismissed.

Order pronounced on 10th day of January, 2024, at Chennai.

Sd/-

(महावीरसिंह )

**(MAHAVIR SINGH)**

उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated:10.01.2024

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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