

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

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

ITA No.1014/Bang/2023
Assessment Year: 2017-18

Sri Ramachandra Suresh 1, 2 <sup>nd</sup> Main, 6 <sup>th</sup> Cross, Bakshi Garden Cottonpet Main Road Bengaluru 560 053. Karnataka  <b>PAN NO : DNJPS5341M</b>	<b>Vs.</b>	ITO Ward-2(2)(8) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	:	Smt. Sunaiana Bhatia, A.R.
<b>Revenue by</b>	:	Shri Subramanian S., D.R.

<b>Date of Hearing</b>	:	18.01.2024
<b>Date of Pronouncement</b>	:	18.01.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against order of NFAC for the assessment year 2017-18 dated 11.6.2022 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”). The assessee has raised following grounds of appeal:

“1. *The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*

2. *The appellant denies himself liable to be assessed on a total income of Rs. 2,19,91,820/- as against the returned income of Rs. 10,21,820/- for the year under appeal that has been upheld by the learned CIT[A] without appreciating that the appellant was unable to make any submissions before the learned A.O., under the facts and in the circumstances of the appellant's case.*

3. *The learned CIT[A] is not justified in disposing off the appeal ex-parte without allowing sufficient and real opportunity to the appellant to*

*represent the case in first appeal especially since the assessment order was also passed in ex-parte fashion without the benefit of any explanation from the appellant in support of the sources for the cash deposits made under the facts and in the circumstances of the appellant's case.*

4. *The learned CIT[A] is not justified in upholding the addition of Rs.2,09,70,000/- as unexplained cash deposited in the bank account u/s.69A of the Act, under the facts and in the circumstances of the appellant's case. The learned CIT[A] ought to have appreciated that the cash deposit made by the appellant was from a combination of advance received from prospective buyers of site developed by the appellant and out of the earlier withdrawals of the funds and thus, from out of known and explainable sources of funds and hence, the addition made ought to have been deleted.*

5.1 *The learned CIT[A] is not justified in upholding the tax imposed under the provisions of section 115BBE at the rate of 60% under the facts and in the circumstances of the appellant's case.*

6. *Without prejudice to the right to seek waiver before the Hon'ble DG/CCIT, the appellant denies itself liable to be charged to interest u/s. 234-A and 234-B of the Act, which requires to be cancelled under the facts and in the circumstances of the appellant's case.*

7. *For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs."*

**2.** Facts of the case are that the assessee is an individual engaged in the business of land development. The assessee had filed his return of income on 24/01/2018 declaring a total income of Rs. 10,21,820/-. The case was selected for scrutiny. Accordingly, notices u/s 142(1) ,143(2), 144 of the Act were issued and served on the assessee and finally a show cause notice dated 7/12/2019 was issued the AO and received by the assessee on 10/12/2019 instructing the assessee to furnish the details called for on or before 11/12/2019, within just one day's time. By the time the assessee was getting ready to furnishing all the details the order u/s 144 rws 143(3) was passed by the Learned A. O. based on the details of the Bank account of the assessee directly obtained from 2 banks u/s 133(6) of the Act. The assessment order was passed on 15.12.2019 u/s. 144 r.w.s. 143(3) of

the Act by adding income of Rs. 2,09,70,000/- as unexplained money u/s 69A of the Act as all this amount relates to cash deposits during the FY 2016-17 and determining the total income at Rs.2,19,91,820/- and the total tax demand of Rs. 2,24,27,626/- which includes the regular tax, additional tax u/s 115BBE, Surcharge, Education Cess and Interest.

**2.1.** On appeal before NFAC, the assessee was provided many opportunities to present the assessee's case. But no material was brought on record to rebut the findings of the ld. AO and since the assessee was not cooperating, NFAC has confirmed the order of ld. AO in toto. Against this assessee is in appeal before us.

**3.** We have heard the rival submissions and perused the materials available on record. In this case, assessment order has been passed u/s 143(3) of the Act making addition of Rs.2,09,70,000/- u/s 69A of the Act due to cash deposit into bank account for which no explanation has been given. Before NFAC, assessee has not furnished any explanation for the sources from which it has been deposited. Hence, the NFAC has confirmed the order of ld. AO. In our opinion, it is appropriate to remit the issue to the file of NFAC with a direction to the assessee to place necessary evidence in support of source of deposit made into assessee's bank account.

**4.** In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> Jan, 2024

**Sd/-**  
**(George George K.)**  
**Vice President**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 18<sup>th</sup> Jan, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**