

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

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.1022/Bang/2023
Assessment year :2017-18

Shri Nandha Kishore, No.526, Chamundeshwari ITC Road, Ramaswamypalya, M.S. Nagar, Bangalore – 560 033. PAN: AOSPK 9611F	Vs.	The Income Tax Officer, Ward 1(2)(4), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Shri V. Parithivel, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	22.01.2024
Date of Pronouncement	:	23.01.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the ex parte order of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], dated 26.10.2023 for the AY 2017-18 confirming the addition of Rs.45,45,250 made by the AO u/s. 69A on the cash deposits during the demonetisation period.

2. The assessee filed return of income on 13.09.2017 declaring total income of Rs.6,07,440. The case was selected for scrutiny through CASS regarding substantial cash deposits during the

demonetisation period and statutory notices were issued to the assessee. The AO issued other notices and finally a show cause notice to the assessee which was not responded by the assessee. Hence the AO completed the assessment u/s. 144 of the Act and added the entire amount of Rs.45,45,250 u/s. 69A.

3. Aggrieved from the order of the AO, the assessee filed appeal before the CIT(Appeals). The CIT(A) also issued various notices but the assessee did not comply. Accordingly, following the judgment of the Supreme Court in the case of Roshan Di Hatti v. CIT, 107 ITR 938 (SC) and Kale Khan Mohammad Hanif v. CIT, 50 ITR 1 (SC), the CIT(Appeals) dismissed the appeal of the assessee. Aggrieved by the order of the CIT(Appeals), the assessee is in appeal before the Tribunal.

4. The Id. AR submitted that the notices were sent to the email-id of the assessee's CA and therefore the assessee was not aware of the same to reply to the notices. The CA of the assessee also could not respond to the notices due to some personal problems. He submitted that the assessee should not suffer for non-representation of the case by his AR. He therefore requested that another opportunity to substantiate his case before the AO may be provided and he undertook to produce all the necessary evidence in support of his case.

5. The Id. DR opposed the prayer of the assessee to send back the matter to the AO and submitted that various opportunities were provided by the lower authorities.

6. Considering the rival submissions, we note from the order of the CIT(Appeals) the assessee is filing return u/s. 44AD of the Act on presumptive basis and he is not required to maintain books of account. The assessee is maintaining statement of affairs at the end of the year and it was observed that there is opening cash balance of Rs.13,65,427 as on 31.03.2016. The tax professionals are filing return of income of the assessee on the income tax portal and the notices were sent to the tax professionals and the appellant could not get information from the income tax portal. Considering the above, in the interest of justice, we remit the issue in appeal to the file of the Assessing Officer for fresh consideration and decision as per law after reasonable opportunity of hearing to the assessee. The assessee is directed to intimate the correct email-id and communication address, mobile no., etc. to the department and produce all the documents necessary to substantiate his claim and not seek unnecessary adjournment for early disposal of the case.

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

Pronounced in the open court on this 23rd day of January, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 23rd 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.