

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' Bench, Hyderabad**

**Before Shri R.K. Panda, Vice-President**  
**AND**  
**Shri K. Narasimha Chary, Judicial Member**

आ.अपी.सं / **ITA No.614/Hyd/2023**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Income Tax Officer Ward 8(1) Hyderabad	Vs.	Smt. Dhobba Madhavi, Hyderabad PAN:CQSPM2066A
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**C.O No.1/Hyd/2024**

(Arising out of ITA No.614/Hyd/2023  
(A.Y 2017-18))

(Appellant)		(Respondent)
Smt. Dhobba Madhavi, Hyderabad PAN:CQSPM2066A	Vs.	Income Tax Officer Ward 8(1) Hyderabad
(Appellant)		(Respondent)
राजस्व द्वारा / Revenue by:		Shri Shakeer Ahmed, DR
निर्धारिती द्वारा / Assessee by::		Shri P. Prasad, CA
सुनवाई की तारीख / Date of hearing:		13/02/2024
घोषणा की तारीख / Pronouncement:		14/02/2024

**ORDER**

**Per R.K. Panda, Vice-President.**

This appeal filed by the Revenue is directed against the order dated 28.11.2023 of the learned CIT (A)-NFAC, Delhi, relating to A.Y.2017-18. The assessee has also filed the Cross Objection against the appeal filed by the Revenue. For the sake of convenience, these were heard together and are being disposed of by this common order.

2. Facts of the case, in brief, are that the assessee is an individual and has not filed her return of income for the impugned A.Y. On the basis of the data analytics and information gathered during the phase of online verification under 'Operation Clean Money', it was noticed that the assessee has deposited Rs.16,21,000/- in cash in her Bank Account maintained with Syndicate Bank during the demonetization period. Accordingly, notice u/s 142(1) was duly served on the assessee. However, the assessee failed to furnish any return of income for the impugned A.Y in response to notice u/s 142(1). Thereafter, the Assessing Officer also gave further opportunity to the assessee. However, there was no response from the side of the assessee for which the Assessing Officer proceeded to complete the assessment u/s 144 of the I.T. Act.

2.1 The Assessing Officer obtained information u/s 133(6) from the Syndicate Bank where the assessee has maintained her account bearing No30212200074005. As per the statement obtained from Syndicate Bank, it was noticed that the assessee has made a cash deposit of Rs.16,21,000/- during the demonetization period and the total credits from 1.4.2016 to 31.3.2017 was Rs.1,06,57,801/-. Since the assessee did not offer any explanation regarding the nature and source of credits appearing in the Bank Account totaling to Rs.1,06,57,801/-, the Assessing Officer, invoking the provisions of section 69A r.w.s. 115BBE, brought the same to tax.

3. Before the learned CIT (A) NFAC, the assessee filed certain details based on which the learned CIT (A) NFAC directed the Assessing Officer to estimate the income from

business @ 8 per cent of the total turnover or credits of Rs.1,06,57,801/- thereby sustaining the addition to the extent of Rs.8,52,625/- and deleting the balance amount. The relevant observation of the learned CIT (A) NFAC reads as under:

7.6 In the submissions the appellant has stated that she is engaged in the distribution of milk sachets and had taken the sub agency of Karnataka Co-Operative Milk Producers Federation Limited [KCMPPF] and was earning only Rs 4000/- a month. Looking to the status of the appellant it would be reasonable to assume that no books of account are being maintained. Although, the appellant has not produced the relevant details or the bank statements, it can be reasonably inferred that the appellant is engaged in the distribution of milk sachets. Thus treating the entire credits ( including the cash deposits during the demonetisation period) as her income would be unfair. Since she is supplying milk to small shops, and kirana stores, it can reasonably be accepted that the proceeds would be also be in cash and that the cash deposits are out of the money collected. it remains therefore to estimate the taxable income earned from this business. Without sufficient evidence, the claim of the appellant that she is earning only Rs 4000/- pm cannot be accepted. It would be reasonable alternatively, to estimate the income earned by her, from this business @ 8 percent of the total turnover or credits of Rs 1,06,57,801/- noted by the A.O to be appearing in the bank account, at Rs 8,52,625/-.

7.7 Accordingly, the addition issustained to the extent of Rs 8,52,625/- only and the balance is deleted. **Grounds of Appeal are Allowed in Part.**

4. Aggrieved with such order of the learned CIT (A) the Revenue is in appeal before the Tribunal by raising various grounds. The assessee in her cross objection has challenged the estimation of profit @8% of the total credits in the Bank Account.

5. The learned DR submitted that the assessee did not appear before the Assessing Officer and has not submitted any details regarding the nature and source of the credits appearing in the bank Account for which the Assessing Officer completed the assessment u/s 144 of the I.T. Act wherein he made addition of Rs.1,06,57,801/- u/s 69A r.w.s. 115 BBE of the I.T.

Act. Although the assessee filed certain details before the learned CIT (A) NFAC, however, the learned CIT (A) NFAC without calling for a remand report from the Assessing Officer and without any evidence to substantiate that the assessee was engaged in distribution of milk sachets and taken the sub-agency of Karnataka Cooperative Milk Producers Federation Ltd directed the Assessing Officer to estimate the income @ 8% of the total deposits into the Bank Account. Therefore, the order of the learned CIT (A) NFAC is not in accordance with law and should be set aside.

6. The learned Counsel for the assessee, on the other hand, fairly conceded that there was no compliance before the Assessing Officer and the learned CIT (A) NFAC has not called for any remand report from the Assessing Officer. He however, submitted that he has no objection if the matter is restored to the file of the Assessing Officer for verification by giving an opportunity to the assessee.

7. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the assessee in the instant case has neither filed her return of income nor responded to the statutory notices issued u/s 142(1) for which the Assessing Officer completed the assessment u/s 144 of the I.T. Act and made addition of Rs.1,06,57,801/- u/s 69A r.w.s. 115BBE being the total cash deposits in the bank account during the period from 1.4.2016

to 31.3.2017. We find the assessee before the learned CIT (A) NFAC filed certain details based on which the learned CIT (A) NFAC directed the Assessing Officer to estimate the income @8% of the total cash deposits made into the bank account during the financial year 2016-17. However, the learned CIT (A) NFAC has neither called a remand report from the Assessing Officer nor gave an opportunity to the Assessing Officer to make his submissions. It is the submission of the learned Counsel for the assessee that he has no objection, if the matter is restored to the file of the Assessing Officer with a direction to the assessee to file the requisite details since the documents were never examined by the Assessing Officer which were filed before the learned CIT (A) NFAC for the first time. . Considering the totality of the facts of the case and in the interest of justice we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant an opportunity to the assessee to substantiate the nature and source of the cash deposits by producing the relevant details. The Assessing Officer shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to participate in the assesment proceedings and file the requisite details failing which the Assessing Officer is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the Revenue as well as the grounds raised by the assessee in the cross objection are accordingly allowed for statistical purposes.

8. In the result the appeal filed by the Revenue and the C.O filed by the assessee are allowed for statistical purposes.

Order pronounced in the Open on 14<sup>th</sup> February, 2024.

**Sd/-**

**Sd/-**

<b>(K. NARASIMHA CHARY) JUDICIAL MEMBER</b>	<b>(R.K. PANDA) VICE-PRESIDENT</b>
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Hyderabad, dated 14<sup>th</sup> February, 2024

***Vinodan/sps***

Copy to:

S.No	Addresses
1	Income Tax Officer Ward 8(1) Room 907, 9 <sup>th</sup> Floor, Signature Towers, Opp: Botanical Gardens, Kondapur, Hyderabad 500084
2	Smt. Dhobba Madhavi, H.No.5-24, Machirevula, Gandipet Mandal, Ranga Reddy, Hyderabad 500084
3	Pr. CIT-, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*