

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी) न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' (SMC) BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: **1297/CHNY/2023**
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Saravanan,
Plot No.66,
Manali Ramakrishna Avenue,
Ambal Nagar, Mangadu,
Chennai – 600 122.

Vs. The Income Tax Officer,
Non-Corporate Ward 19(3),
Chennai.

PAN : BRTPS 0567F
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri G. Baskar, Advocate
: Shri AR.V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 20.02.2024
घोषणा की तारीख /Date of Pronouncement : 20.02.2024

आदेश/ ORDER

This appeal by the 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/250/2023-24/1057025172(1) dated 12.10.2023. The assessment was framed by the Income Tax Officer, Ward 19(3), Chennai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 10.12.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the addition made by the AO of

unexplained money amounting to Rs.13,65,500/- deposited during demonetization period.

3. Brief facts are that the assessee is an individual carrying on business of trading in onion in Koyambedu Vegetable Market. The assessee also used to sell the goods of others by way of making patti purchase for which he is entitled for commission. The patti goods purchased are sold to various persons in the market by way of patti sales. The assessee filed his return of income for the relevant assessment year 2017-18 on 15.12.2017. The assessee's case was selected for scrutiny assessment under CASS for the reason that cash deposits are made during demonetization period. The AO noticed from the bank statement that the assessee has deposited cash during demonetization period amounting to Rs.13,65,500/- as under:-

<i>Sl. No.</i>	<i>Name of the Bank</i>	<i>Account No.</i>	<i>Cash deposit During demonetization period (in Rs.)</i>	<i>Total credits during the financial year (in Rs.)</i>
1	State Bank of India, West Mambalam	10398296545	0/-	2,000/-
2	State Bank of India, West Mambalam	30455982484	13,65,500/-	1,83,02,975/-
		Total	13,65,500/-	1,86,04,975/-

None represented the assessee nor reply given to show-cause notice. Hence, the AO treated the entire cash deposits made

during demonetization period as unexplained u/s.69 of the Act and taxed the same u/s.115BBE of the Act. Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) confirmed the addition by observing in para 7.11 as under:-

7.11 Having considered entire facts of the case, and the case laws cited above, it is apparent that the appellant has failed to offer any satisfactory & evidence-based explanation despite affording sufficient number of opportunities before the AO. The appellant is seeking to justify his claim for source of cash deposits by merely filing statements which are nothing but self-serving statements. Further, the appellant in the ground no. 3 of this appeal has submitted as below:

"The Appellant submits the correct amount of cash deposits during the demonetization period from 09.11.2016 to 15.12.2016 is Rs. 8,65,500/- Which is reflected and support by Bank Statements. The Assessing Officer Wrongly considered the same as Rs. 13,65,500/- in his assessment order."

In support of his claim, the appellant has filed the copy of bank account no. 30455982484 in the SBI, West Mambalam, partly (only two pages) for the period 10.11.2016 to 26.12.2016, during which the cash deposits indeed are of Rs.8,65,500/- only. However, it is not clear as to why the appellant is furnishing only the part details of bank account that too only for part period of demonetisation spanning from 09.11.2016 to 31.12.2016. Accordingly, the claim of appellant cannot be accepted in the absence of complete details, which might not have been filed by the appellant deliberately. Hence, no relief can be granted on this issue.

Having considered the facts of the case and the case laws cited above, I find no infirmity in the order of AO. Accordingly, the addition made of Rs. 13,65,500/- is confirmed. Accordingly, this ground of appeal is dismissed.

Aggrieved against the order of CIT(A), assessee preferred appeal before the Tribunal.

5. I have heard rival contentions and gone through the facts and circumstances of the case. I noted from the facts and arguments of both the sides that the assessee has deposited cash during demonetization period in State Bank of India amounting to Rs.13,65,500/-. The assessee before AO and before CIT(A) claimed that the demonetized cash deposit in SBI, out of total cash deposits during demonetization period of Rs.13,65,500/- is only Rs.8,65,500/-. This reply was given by assessee in response to notice dated 22.06.2019 on 10.12.2019 that the cash deposit during demonetization period in demonetized currency i.e., Specified Bank Notes (SBNs) was only Rs.8,65,500/- and it was out of cash in hand available as per cash book maintained in the regular course of business which has been realized by way of patti sales. It was explained by the assessee that assessee was asked to furnish the total cash deposit during the period 01.11.2016 till the end of demonetization period i.e., 31.12.2016. The assessee submitted details as per which the total cash deposited during 01.11.2016 to 31.12.2016 was Rs.13,65,500/- but the cash deposited during demonetization period in SBNs was only to the extent of Rs.8,65,500/-. The ld.counsel for the assessee drew my attention to assessee's paper-book wherein statement of SBI Bank A/c.No.30455982484 is enclosed at pages 7 to 44 and given the

complete narration of cash deposit (which was available before the AO and CIT(A)), which is enclosed at page 64 of assessee's paper-book. I have gone through the bank statement of the assessee maintained with SBI and noted from the entries that the following cash deposits made in SBNs during demonetization period is to the extent of Rs.8,65,500/-.

<i>Date of Deposit</i>	<i>Cash Deposits</i>
10.11.2016	49000
10.11.2016	310000
11.11.2016	500000
08.12.2016	5000
14.12.2016	1500
	865500

I also noted that the assessee has opening cash available as per cash book, the extract of cash book are already enclosed in assessee's paper-book at pages 45 to 63, which reflects that the cash deposit made in SBI account during demonetization period in demonetized currency i.e., in SBNs is out of opening cash of Rs.8,37,116/-. Even the assessee to prove that this cash deposit in demonetized currency during the demonetization period is out of cash sales has already been reported to the Income-tax Department before scrutiny assessment in e-proceeding response by stating as under:-

“Cash Deposit Rs.865000 during demonetization period from 09.11.2016 to 15.12.2016 is Highlighted by way of colour marking in the Bank statement Attached. The Cash balance deposited in the bank promptly reflected in the

cash book. The sources of Deposits of cash is by way of Patti sales realized in course of regular business. The cash is Deposited through out year and Not alone during demonetized period.”

5.1 From the above facts and circumstances, I'm of the view that the only cash deposit during demonetization period in demonetized currency is Rs.8,65,500/- and out of this, opening cash as on 10.11.2016 available in the books of accounts is Rs.8,37,116/-. To that extent, the source of cash deposit is explained and balance cash of Rs.28,384/- remains unexplained. It means that the unexplained cash is only to the extent of Rs.28,384/- which is sustained and rest of all is deleted. In term of the above, I allow this appeal partly.

6. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court at the time of hearing on 20th February, 2024 at Chennai.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 20th February, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.