

आयकर अपीलीय अधिकरण, 'बी', न्यायपीठ,चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' (SMC) BENCH : CHENNAI

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

आयकर अपील सं./I.T.A. No. 1414/CHNY/2023
निर्धारण वर्ष/Assessment year : 2017-2018

Smt A. Sathya,
246, Pilliar Koil Street,
Puduvassoor,
Vellore 632 009.

Vs. The Income Tax Officer,
Ward 1
Vellore.

[PAN APKPA 1982N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. M. Karunakaran, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri ARV Sreenivasan, Addl CIT

सुनवाई की तारीख/Date of Hearing : 19.02.2024

घोषणा की तारीख /Date of Pronouncement : 19.02.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Additional Commissioner of Income Tax (Appeals), Kolkata in Order No.ITBA/APL/S/250/2023-24/1058032155 (1), Dated 17.11.2023. The assessment was framed by the Income Tax Officer, Ward 1, Vellore for the assessment year 2017-2018, u/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 03.12.2019.

2. The only issue in this appeal of assessee is against the order of the Additional Commissioner of Income Tax (Appeals), Kolkata in confirming the addition made by the Id. Assessing Officer at Rs.9,16,000/- being demonetized cash deposit made by the assessee and treating the same as unexplained money u/s.69A of the Act and levying tax u/s.115BBE of the Act.

3. I have heard rival contentions and gone through facts and circumstances of the case. Brief facts of the case are that as per the information available with the Department, the assessee has deposited an amount of Rs.11,16,000/- in his Indian Bank Savings Account, Sathuvachary Branch on 16.11.2016 during Demonetization Period ie., from 09.11.2016 to 30.12.2016. When questioned about the cash deposits of Rs. 11,16,000/- in the Indian Bank Savings Account bearing Number 830695338 during the Demonetization Period, the Authorized Representative has replied that "the Assessee is doing Money lending business for the Past few years and started filing of Return of Income from the A.Y.2016-17 onwards. He used to give small amounts as loans to known people and the repayments from them along with the Interests usually received by cash only. During Demonitization Period even though he has insisted his Customers to repay the loans in Cheque, they refused to do so and paid him back in Old Currency Notes and the subsequent deposit of the same is source for the cash deposits during Demonetization

Period. The Assessing Officer has not accepted the plea of the assessee by giving reasons that this action of the assessee seems to be an after thought to create debtors in his balance sheet and thereby accommodating loans and advances in the asset side of the Balance Sheet. According to him, assessee failed to produce list of persons and their contact details to whom he had given loans and advances and hence the Assessing Officer treated the entire cash deposit of Rs.11,16,000/- deposited during the demonetization period as unexplained except a sum of Rs.2,00,000/- may be his past family saving and is exempted from addition in view of principles of natural justice. Since the source of cash deposits was not properly explained, the Assessing Officer added a sum of Rs.9,16,000/- as unexplained money u/s.69A of the Act and taxed the same u/s.115BBE of the Act. Aggrieved, assessee preferred an appeal before the Id. Additional Commissioner of Income Tax (Appeals).

4. The Id. Addl. CIT(A) confirmed the action of the Id. Assessing Officer by observing as under:-

'The facts of the case, the appellant had deposited an amount of Rs.11.16 lakhs in his Indian Bank Savings Account, on 16.11.2016 during demonetization period i.e., from 09.11.2016 to 30.12.2016. AO had asked appellant to explain the source of cash deposit. Appellant in his reply had stated that he had engaged in money lending business, during demonetization, borrowers had repaid him

the loans in SBNs, and the he had no information about names and address of the borrowers who had repaid the loans.

The contention of appellant is not in accordance with law. The AO is duty bound under section 143(3) of the Income Tax Act, 1961 to enquire about the source of cash deposit, identity & creditworthiness of persons who had given cash to appellant and genuineness of transaction. The appellant had failed to provide basic information sought by AO under section 142(1) of the Income Tax Act, 1961. Further appellant is not a regular income tax return filer and asserted to be engaged in money lending business, which is illegal in the eyes of law.

As appellant had failed to provide the basic information which is essential for third party enquiry by AO to verify the source of cash deposit, the appellant's argument is rejected. The action of AO is upheld. As a result, appeal is dismissed”.

Aggrieved, assessee preferred an appeal before the Tribunal.

5. From the facts and circumstances of the case, I note that assessee has deposited a sum of Rs.11,16,000/- in the Indian Bank Saving Account during demonetization period as assessee is doing money lending business for the past few years. Admittedly, assessee has filed his return of income for the assessment year 2016-2017 on 15.11.2016 in which he has enclosed Balance Sheet which declared debtors/loans/ advances in asset side. Admittedly, assessee failed to produce the list of persons and their contact details before the Id. Assessing Officer. The Assessing Officer has estimated his saving at Rs.2,00,000/- which is very low. Going by the nature of business and debtors in the Balance Sheet claimed that assessee had deposits of Rs.11,16,000/- out of the some debtors, I make

a fair estimate, accept a sum of Rs.6,00,000/- as cash in the shape of debtors/loans/ advance as asset in the balance sheet for assessment year 2016-2017 i.e year ending 31.03.2016 which was carried forward in the next year deposited in bank account on 16.11.2016. Hence, I accept the availability of cash deposit of Rs.6,00,000/- and the balance of Rs.5,16,000/- as unexplained. The appeal of the assessee is partly allowed.

6. In the result, the appeal of the assessee in ITA No.1414/CHNY/2023 for assessment year 2017-2018 is partly allowed.

Order pronounced in the open court at the time of hearing on 19th day of February, 2024, at Chennai.

Sd/-
(महावीरसिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated: 19.02.2024.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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