

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. 1513/CHNY/2023
निर्धारण वर्ष/Assessment year : 2017-2018

Shri Kannan Kumaresan,
23A, Chinnakadai Street,
Tiruvannamalai 606 601.

Vs. The Income Tax Officer,
Ward 1
Tiruvannamalai .

[PAN BJEPK 6590D]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri. R. Kumar, Advocate
: Shri ARV Sreenivasan, Addl CIT

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

: 19.02.2024
: 19.02.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1056506054 (1), dated 25.09.2023. The assessment was framed by the Income Tax Officer, Ward 1, Tiruvannamalai for the assessment year 2017-2018, u/s.144 of the Income Tax Act, 1961 (in short 'the Act') dated 25.12.2019.

2. At the outset, it is noticed that this appeal filed by the assessee is barred by limitation by twenty four days. Assessee has filed affidavit stating reason in para 2 which reads as under:-

'2. The Petitioner submits that his Income Tax matters were handled by Sri J. Anbalagan, Income Tax Practitioner, Tiruvannamalai. For reasons which are not clear there were default on the part of the Income Tax Practitioner ending in exparte assessment order u/s 144 of the Act. On coming to know of the adverse Order in the First week of December 2023, the Petitioner engaged Sri A. Vijayakumar Chartered Accountant, Tiruvannamalai for filing the appeal before this Hon'ble Tribunal. Immediately the Chartered Accountant contacted Sri T.N.Seetharaman, Advocate, Chennai for filing the appeal after preparation of the papers and signature the appeal was filed on 18.12.2023''.

It was not seriously contested by the Id. Senior Departmental Representative and going by the reasons, the small delay of twenty four days is condoned and the appeal is admitted for adjudication.

3. The only issue in this appeal of assessee is with regard to the order of the Id. Commissioner of Income Tax (Appeal) confirming the addition made by the Id. Assessing Officer amounting to Rs.14,89,000/- deposited during demonetization period in Specified bank notes treating the same as unexplained money u/s.69A of the Act and taxing the same u/s.115BBE of the Act.

4. I have heard rival contentions and gone through facts and circumstances of the case. Brief facts of the case are that assessee is having sub-dealership of M/s. Meena LPG Distribution and carrying on distribution of Commercial Gas Cylinders. The Id. Assessing Officer during the course of assessment

proceedings noted that assessee has made cash deposit of Rs.13,93,000/- in his bank account maintained with Indian Overseas Bank and Rs.96,000/- in India Post during demonetization period of demonetized currency of specified bank notes. According to the Id. Assessing Officer assessee no doubt submitted copy of ITR, VAT return and also claimed that he is a sub-dealer of M/s. Meena LPG Industries distributing Commercial Gas Cylinders and sale proceeds out of cylinders were deposited in the bank account and India Post aggregating to Rs.14,89,000/- during demonetization period which was not explained. Hence, he added a sum of Rs.14,89,000/- to the total income of the assessee as unexplained money u/s.69A of the Act and taxed u/s.115BBE of the Act. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

5. The Id. Commissioner of Income Tax (Appeals) dismissed the appeal of the assessee without adjudicating on the merits. Aggrieved, assessee preferred an appeal before the Tribunal.

6. I have heard the rival contention and perused the material on record. Admittedly, assessee is a sub dealer of M/s. Meena LPG Industries and carrying on distribution of commercial gas cylinders in and

around Tiruvanamalai District and they are registered under TN VAT. As urged by the Ld. Counsel for the assessee that the Government of India have permitted certain receipts in Specific Bank Notes Rs. 500/- and Rs. 1000/- up to 15-12-2016 as per the notification issued by Department of Economic Affairs, Ministry of Finance dated 24-11-2016; the provisions of the clause 15 of the notification for payments on purchases of LPG gas cylinders. Ld. Counsel for the assessee submitted that the assessee is dealing with distribution of LPG Gas Cylinder and the assessee have been permitted to deal with Specific Bank Notes and the assessee had deposited the Specified Bank Notes up to 15-12-2016. I noted that assessee had filed the above notification dated 9.11.2016 whereby payment on purchase of LPG gas cylinders i.e. demonetized currency was permitted. Assessee filed copy of the Indian Overseas Bank account wherein cash were deposited on various dates from 11.11.2016 and thereafter claimed it as on sale of gas cylinders. This is a matter of verification. However, the Assessing Officer has to allow cash received in demonetized currency as notified vide notification No.S.O.3416 (E) dated 9.11.2016 for payments on purchases of LPG gas cylinders subject to verification. Legally assessee is entitled to deposit demonetized cash received on sale of LPG cylinders. Accordingly, I am remitting this issue, for limited purpose of verification of facts, back to the file of the Assessing

Officer who will decide after verification of facts. Hence, the appeal of the assessee is allowed for statistical purpose.

7. In the result, the appeal of the assessee in ITA No.1513/CHNY/2023 for assessment year 2017-2018 is allowed for statistical purpose.

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:

1. अपीलार्थी/Appellant

2.प्रत्यर्थी/Respondent

3..आयकर आयुक्त/CIT

4.विभागीय प्रतिनिधि/DR

5.गार्ड फाईल/GF