

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, BANGALORE**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY,  
JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

**ITA No.107/Bang/2024  
Assessment Year: 2017-18**

M/s.Arush TeCHNOLOGY,  
Murankeri Street,  
Bagalkot Road,  
Vijayapur-586 101.  
[**PAN:** ABEFA 6524 C]  
**(Appellant)**

**Vs.** The ITO,  
Ward-1 & TPS,  
Bijapur.

**(Respondent)**

Appellant by : Shri Sandeep Chalapathy,  
Ld. CA  
Respondent by : Shri Ganesh R. Ghale,  
Ld. Standing Counsel  
Date of Hearing : 14.02.2024  
Date of Pronouncement : 21.02.2024

**ORDER**

**Per N.K. Choudhry (JM):**

This appeal has been preferred by the Assessee against the order dated 29.11.2023 impugned herein passed by the National Faceless Appeal Centre/Learned Commissioner of Income Tax (Appeals) (in short "the Ld. Commissioner") u/s.250 of the Income Tax Act, 1961 (in short "the Act") for the AY 2017-18.

**:: 2 ::**

**2.** In this case, on the basis of data analytics & information gathered during the phase of online verification under 'Operation Clean Money', the Income Tax Department procured a list of assesses who had deposited substantial cash in bank account(s) during the demonetization period i.e. from 09.11.2016 to 30.12.2016 but have not filed their Income Tax Returns for the AY 2017-18. The data procured reveals that the Assessee has also deposited an amount of Rs.10,27,350/- in cash old currency notes of Rs.500/- & Rs.1000/- in his bank account maintained with ICICI Bank, Bijapur Branch, during the aforesaid demonetization period and has not filed its return of income either u/s.139 of the Act or in response to the notice u/s.142(1) of the Act. Therefore, in order to verify the cash deposits made in old currency notes, the case of the Assessee was selected for scrutiny under 'operation clean money' for the AY 2017-18. Accordingly the statutory notices, were issued and served to the Assessee. However, the Assessee neither appeared nor filed any written submissions. Therefore, the AO on the basis of material available on record and by determining that the Assessee has not explained the source of above mentioned cash deposits of Rs.10,27,350/-, brought the said amount to tax as per provisions of Sec.69A of the Act and taxed the same per provisions of Sec.115BBE of the Act. The AO also not allowed any deduction qua expenditure or set off of any loan under any provisions of the Act, in computing the income.

**3.** The Assessee being aggrieved challenged the aforesaid addition before the Ld. Commissioner who though issued various notices for the dates of hearing before him, however, the Assessee preferred not to file any written submissions/documents. Therefore, finding no option, the Ld. Commissioner upheld the addition by dismissing the appeal filed by the Assessee.

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4. The Assessee being aggrieved is in appeal before us.
  
5. We have given thoughtful consideration to the peculiar facts and circumstances of the case and observe that before the AO, the Assessee not only failed to furnish its return of income for the AY under consideration either u/s.139 of the Act or in response to notice issued u/s.142(1) of the Act, but also failed to substantiate its claim/amount of Rs.10,27,350/- allegedly deposited in the ICICI Bank, Bijapur Branch, (supra) and therefore, in the constrained circumstances, the AO made the addition of Rs.10,27,350/- u/s.69A of the Act and taxed the same as provisions of Sec.115BBE of the Act. Though, the Assessee preferred first appeal against the assessment order/addition made by the AO before the Ld. Commissioner, however, in spite of sending four notices as appears in impugned order, the Assessee by not filling any reply and document failed to substantiate its claim. Therefore, the Ld. Commissioner finding no option and observing *“that the Assessee by failing to discharge its onus to provide satisfactory evidences regarding the source of deposited amount, left the deemed income standing uncontroverted”* ultimately, affirmed the aforesaid addition by dismissing the appeal of the Assessee ***in limine***. As the Assessee remained negligent and un-cooperative and therefore the Assessee is not entitled for any relief, however, considering the peculiar facts and circumstances of the case, as in the absence of relevant reply/submission/documents of the Assessee, the issue with regard to deposit of Rs.10,27,350/- has not been decided in its right perspective and therefore, for the just decision of the case and for the ends of justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh. Suffice to say, by affording reasonable opportunity to the Assessee to substantiate its claim.

**:: 4 ::**

The Assessee is also directed to appear, if necessities and to file relevant reply/submission and documents in order to substantiate its claim. We clarify that on subsequent default, the Assessee shall not be entitled for any leniency.

**6.** In the result, appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced on the 21<sup>st</sup> day of February, 2024, as per Rule 34(5) of the Income Tax (Appellate Tribunal) Rules, 1963.

**Sd/-  
(LAXMI PRASAD SAHU)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

TLN, Sr.PS (on Tour)

**Copy to:**

1. The Appellant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore
5. Guard File

**// True Copy //**

**By Order**

**Dy./Asst. Registrar,  
ITAT, Bangalore**