

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1193/Chny/2023
निर्धारण वर्ष /Assessment Year: 2017-18

Jayaraj Gunasekaran,
Old No.18, Reddy Street,
Villivakkam,
Chennai – 600 049.
[PAN: AFAPG-7047-L]
(अपीलार्थी/Appellant)

The Income Tax Officer,
Vs. Non Corporate Ward-10(1),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri Harshavardhan, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/Date of Hearing : 15.02.2024
घोषणा की तारीख /Date of Pronouncement : 06.03.2024

आदेश / ORDER

PER MANOMOHAN DAS, J.M:

This appeal by the assessee is directed against the order of the learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi dated 29-08-2023 and pertains to the Assessment Year 2017-18.

2. The grounds of appeal of the assessee are as under:

"1. The Ld. CIT(A) erred in confirming the order of the Assessing Officer dated 08.05.2023 of the Income Tax Act, 1961 (hereinafter the "Act"),

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2. The Ld. CIT(A) failed to appreciate that the order passed by the Ld. Assessing Officer dated 08.05.2023 was based on surmises and conjectures.

3. The Ld. CIT(A) failed to appreciate that a comparison of cash sales with the earlier year was improper in as much as business and business opportunities vary from year to year, and during AY 2017-18, the assessee's business had been doing very well, which had led to an increase in cash deposits.

4. The Ld. CIT(A) failed to appreciate that the assessee's bank accounts bearing No. 918201001219 and 918101039356 were used for making purchases of stock from local suppliers, and that cash deposits into the said accounts in the previous years was low. However, in AY 2017-18, business receipts had been received primarily in cash form, which had led to an increase in cash deposit."

3. The brief facts of the case are that the assessee filed his income tax return for the Assessment Year [AY] 2017-18 on 27-01-2018 and reported cash deposits of Rs. 31,08,500/- in his bank account maintained with Canara Bank (A/c No. 918201001219) during demonetization period. As per the ITS details the assessee has other two more accounts with Canara Bank No. 918101039356 reflecting cash deposit during demonetization of Rs. 4,98,000/- and A/c No.91813200013 reflecting cash deposit during demonetization of Rs.66,80,241/-. However, the assessee has not provided any details with regard to cash deposited in SBN notes as well as non SBN notes for the period from 08-11-2016 to 30-12-2016. The Id. Assessing Officer passed an order under clause (d) of section 148A of the Act on 23-07-2022 and issued notice u/s 148 to the assessee asking him to file his return of income for the relevant assessment year within 30

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days. In response, the assessee filed ITR for AY 2017-18 on 18-04-2023 declaring total income of Rs. 7,17,710/- vide acknowledgement No. 119244500180423. Notice u/s 143(2) of the Act was issued to the assessee on 20-04-2023. Notice u/s 142(1) of the Act was issued to the assessee on 05-01-2023 along with detailed questionnaire for compliance on or before 20-01-2023, but not responded by the assessee. Thereafter, on various dates notices u/s 142(1) of the Act, u/s 144 of the Act were issued to the assessee including final show cause notice and the assessee filed his reply on 18-04-2023 and 22-04-2023, respectively. The assessee filed written reply and copy of bank statements.

4. The Id. Assessing Officer [AO] considered the reply, copy of bank statements and observed that the assessee during the demonetization period deposited cash in his bank account Nos. 0918201001219, 918101039356 amounting to Rs. 26,00,000/- and Rs.4,98,000/-, respectively. The Id. AO further observed that the assessee did not provide the nature and source of cash deposits made during the demonetization period. Therefore, the Id. AO vide order dated 08-05-2023 treated the aforesaid amount of Rs. 30,98,000/- as unexplained money u/s 69A of the Act and added to the total income of the assessee.

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5. Being aggrieved, the assessee filed 1st appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 29-08-2023 partly allowed the appeal of the assessee.

6. Being aggrieved, the assessee filed the present appeal before the Tribunal.

7. Heard the representatives of both the parties and perused the materials on record. The Ld. AR submitted that comparison of cash sales with the earlier year was improper, assessing business was very well during the relevant period, business received primarily was in cash form. On the other hand, the Ld. DR submitted that the assessee did not provide the information regarding the deposit of SBN notes during demonetization period and the nature source of the cash deposits was not explained.

8. We carefully considered the submissions of both the parties and perused the materials on record. We observe that the Id. CIT(A) confirmed the addition made by the Id. AO. However, the Id. CIT(A) given partial relief to the assessee to the extent of Rs. 3.25,000/- by observing that the assessee during the AY 2015-16 deposited cash amount of Rs.3,14,000/-. We, further observe that the assessee did not provide information about the SBN notes deposited by him during

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the demonetization period besides non-explanation of the nature and source of cash deposits. Therefore, it is our considered opinion that the total income of the assessee may be changed in case the information about the SBN notes and nature and source of cash deposited are furnished to the assessing authority. Accordingly, one more opportunity ought to be given to the assessee for furnishing the nature and source of the cash deposited by him including the information about the SBN notes deposited during the demonetization period. Hence, we set aside the orders of the lower authorities and remand the matter to the Id. AO for fresh examination. At the same time, we direct the assessee to substantiate his claims before the Id. AO by furnishing the desired information.

9. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced on 06th March, 2024.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated 06th March, 2024.

EDN/-

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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

