

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

श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष

BEFORE SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 1312/Chny/2023

निर्धारण वर्ष / Assessment Year: 2017-18

Logamaheshwara
5/217, Attavanai
Erayamangalayam,
Erayamangalayam,
Namakkal – 637 210.

[PAN: AJQPL-7714-H]

(अपीलार्थी/Appellant)

Income Tax Officer,
v. Ward -1,
Tiruchengode.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. S. Sridhar, Advocate (Erode)

प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 28.02.2024

घोषणा की तारीख/Date of Pronouncement : 06.03.2024

आदेश / O R D E R

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 07.09.2023 and pertains to assessment year 2017-18.

2. At the outset, we find that there is a delay of 14 days in appeal filed by the assessee, for which petition for condonation

of delay along with reasons for delay has been filed. After considering the petition filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

3. The brief facts of the case are that, the assessee is an individual deriving income from salary from a private company. Apart from that, the assessee claims to have earned income from money lending business and agricultural activities. The assessee has filed his return of income for the assessment year 2017-18 on 06.03.2018, admitting a total income of Rs. 3,75,350/- and agricultural income of Rs. 50,000/-. The case was selected for scrutiny under CASS to verify large cash deposits during demonetization period. During the course of assessment proceedings, the Assessing Officer noticed that total credits in Indian Bank account of the appellant was at Rs. 36,34,071/- and out of which sum of Rs. 13,81,000/- is cash deposited in specified bank notes during demonetization period. The Assessing Officer, called upon the

assessee to furnish necessary evidences and also explain source for cash deposits. In response, the assessee submitted that source for cash deposits is out of opening cash balance in hand of Rs. 9,00,000/-, which is supported by Income Tax Return filed for last two financial years. Further, he has received loan from LIC at Rs. 3,04,115/- and balance is out of agricultural income and income from salary for the current year. The Assessing Officer, however was not convinced with the explanation furnished by the assessee and according to the Assessing Officer, the assessee could not explain source for huge cash deposits of Rs. 36,34,071/- and thus, rejected arguments and made additions of Rs. 36,34,071/- u/s. 69A of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

4. Being aggrieved by the assessment order, assessee preferred an appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee reiterated his submissions made before the Assessing Officer and argued that, source for cash deposits is out of opening cash in hand, income of current year and loan received from LIC. The Id. CIT(A), after considering relevant submissions of the assessee, allowed partial relief of

Rs. 3,04,115/- towards loan from LIC and also a sum of Rs. 1,69,000/- towards current year income. In other words, the Id. CIT(A) allowed relief of Rs. 4,73,115/- towards cash deposits into bank account and balance addition of Rs. 31,60,956/- has been confirmed. Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

5. The Ld. Counsel for the assessee, Shri. S. Sridhar, Advocate (Erode), submitted that the Id. CIT(A) erred in not considering opening cash in hand available with the assessee, which is generated out of income earned for last two years, out of agricultural income declared in the return of income filed for the relevant assessment years. The Ld. Counsel for the assessee, further submitted that the balance amount of cash deposits is out of collection from sundry debtors from assessee's money lending business. Therefore, he submitted that additions made by the Assessing Officer should be deleted.

6. The Id. DR, on the other hand supporting the order of the Id. CIT(A) submitted that, the assessee could not file any evidence to prove income from agricultural operations. The

assessee had also not filed any details to prove income generated from money lending business and also realization from sundry debtors. The Id. CIT(A), after considering relevant submissions has rightly allowed partial relief and confirmed remaining additions towards cash deposits and their order should be upheld.

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Although, the appellant claims to have earned agricultural income, but no evidence has been filed before the Assessing Officer and Id. CIT(A). Even before us, the Ld. Counsel for the assessee has expressed his inability to submit any details with regard to extent of land holding, agricultural activities carried out by assessee and income generated from agricultural activities. The appellant has also failed to prove money lending business activities with necessary evidences. Therefore, we are of the considered view that the assessee could not furnish sufficient evidences before the Assessing Officer and the Id. CIT(A) to explain source for cash deposits, except stating that he was having opening cash in hand at Rs. 9,00,000/- and source for cash deposits is out of opening cash

in hand and realization of sundry debtors. At the same time, the Assessing Officer and the Id. CIT(A) could not adduce any reasons for not considering the explanation of the assessee with regard to opening cash in hand of Rs. 9,00,000/-. Although, the appellant could not file necessary evidences, the possibility of keeping opening cash in hand out of agricultural income declared for last two financial years cannot be ruled out. The assessee has filed ITRs for last two financial years and as per ITRs filed by the assessee, the assessee has declared about Rs. 6,00,000/- agricultural income for two assessment years. The assessee has not declared any other income in the return of income filed for last two financial years. Assuming for a moment, the assessee derives agricultural income at Rs. 6,00,000/-, it cannot be said that the assessee has saved entire agricultural income without spending for his day-to-day expenses. Therefore, considering the amount of agricultural income declared by the assessee for last two financial years, we are of the considered view that a reasonable amount can be attributable towards savings, which can be kept in cash balance. Therefore, out of total agricultural income declared by the assessee, we consider a sum of Rs. 2,00,000/- towards expenses of the assessee for

two years and balance sum of Rs. 4,00,000/- is available with the assessee in the form of cash in hand which can be considered as source for cash deposits. Therefore, we direct the Assessing Officer to allow relief to the extent of Rs. 4,00,000/- towards cash deposits into bank account in addition to relief already given by the Id. CIT(A). For balance cash deposits, the assessee could not adduce any evidence. Therefore, we sustain additions made by the Assessing Officer and sustained by the Id. CIT(A). To sum up, out of total additions sustained by the Id. CIT(A) of Rs. 31,60,956/-, the assessee gets relief of Rs. 4,00,000/- and balance amount of Rs. 27,60,956/- has been confirmed.

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

Order pronounced in the court on 06th March, 2024 at Chennai.

Sd/-
(मंजूनाथा. जी)
(MANJUNATHA. G)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 06th March, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्धी/Respondent
3. आयकर आयुक्त/CIT
- 4.. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF