

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी), न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' (SMC) BENCH : CHENNAI
श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपीलसं./I.T.A.1400/CHNY/2023
निर्धारण वर्ष/Assessment year : 2017-2018

**Shri Naramuthu Naicker
Nataraj**
4, Pallapalayam,
Udumalpet,
Tirupur 642 112.

Vs. The Income Tax Officer,
Ward 1(2)
Tirupur.

[PAN ALMPN 7527L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri. Yeshwanth Kumar, CA.
: Shri ARV Sreenivasan, Addl CIT

सुनवाई की तारीख/Date of Hearing

: 20.02.2024

घोषणा की तारीख /Date of Pronouncement

: 20.02.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1056730940 (1) dated 03.10.2023. The assessment was framed by the Income Tax Officer, Ward 2(4), Tirupur for the assessment year 2017--2018, u/s.144 of the Income Tax Act, 1961 (in short 'the Act') on 24.09.2019.

2. The first issue in this appeal of the assessee is as regards to order of the Id. Commissioner of Income Tax (Appeals) (in short 'the Id. CIT(A)) in confirming the action of the Id. Assessing Officer in making cash deposits of Rs.15,00,0000/- during demonetization period in specified bank notes treating the same as unexplained amount u/s.69A of the Act and therefore taxed u/s.115BBE of the Act.

3. Brief facts of the case are that the Id. Assessing Officer during the course of assessment proceedings noticed that assessee has made substantial cash deposit in assessee's bank account during demonetization period in specified bank notes amounting to Rs.15,00,000/- . Assessee has not filed return of income in relevant assessment year 2017-2018 and accordingly notice u/s.142(1) of the Act was issued on 09.03.2018. But assessee failed to file return of income inspite of notice. Consequently, the Id. Assessing Officer on the basis of AIR information issued a letter to the bank calling for information u/s.133 (6) of the Act to provide copies of statement of assessee bank account during the period 2016-2017 relevant to assessment year 2017-2018. The Id. Assessing Officer noted that assessee had made deposit of Rs.15,00,000/- in bank account during demonetization period in specified bank notes. The Id. AO issued show cause notice to the assessee on 13.09.2019 proposing to assess entire cash deposits as unexplained cash credit and to explain the source of other credits also. Since assessee offered

no explanation or there is no compliance on the part of the assessee, Id. Assessing Officer based on best judgment assessment order u/s.144 of the Act added the cash deposits of Rs.15,00,000/- as unexplained money u/s.69A of the Act r.w.s. 115BBE of the Act. Aggrieved, assessee filed an appeal before the Id. CIT(A).

4. Before the Id. CIT(A) it was contented that amount deposited in cash is out of agricultural income as assessee is basically agriculturist engaged in agricultural operation. It was stated before the Id. CIT(A) by the assessee that assessee had advanced money whenever he is in surplus to his close friends and relatives to meet the agricultural expenses which is repaid by them on the sale of the agricultural proceeds. It was contented that the amount deposited by him of Rs.7,54,567/- is out of agricultural produce which was repaid by them by RTGS. Assessee filed before the Id. CIT(A) copies of the sale notes given by the purchaser quoting their RTGS reference. The deposit of Rs.8,00,000/- (Rs.4,00,000/- + Rs.4,00,000/-) made on 01.11.2016 is also out of the sale proceeds of agricultural produces and assessee filed copies of adangal wherein cultivation of his land is reflected. It was contented that he had cultivated sugarcane in a part of his land i.e above one acre and also few coconut trees. The Id. CIT(A) not considered the explanation of the assessee by stating that no proof of sale of agricultural produce or details of land has been filed and even assessee has not filed proof of agricultural income earned

in previous years and surplus arising out of the same. Hence he confirmed the action of the Id. Assessing Officer. Aggrieved, assessee preferred an appeal before the Tribunal.

5. Before me, the Ld. Counsel for the assessee filed copies of adangal register, letter issued by Village Administrative Officer, copy of bill dated 19.10.2016 evidencing sale of onion to Kathirvel, copy of bank statement evidencing receipt from Kathirvel as fresh documents. As is evident from the order of CIT(A) and that of the AO that assessee could not file these evidences before AO. I feel that these evidences are vital for deciding the issue but these needs verification. Hence, I set aside the order of CIT(A) and that of the AO on this issue after admitting these evidences and accordingly, matter is restored back to the file of the AO. The AO will verify these documents and also examined the cash deposit of Rs.15 lakhs during demonetization period in specified notes whether the source is agricultural income or not. In term of the above, this issue is set aside and allowed for statistical purposes.

6. The next issue in this appeal of assessee is as regards to order of the Id. CIT(A) confirming the action of the Id. Assessing Officer in assessing estimated business income of Rs.3,14,800/-, whereas it is agricultural income earned by the assessee and not business income.

7. I have heard rival contentions and gone through the facts and circumstances of the case. Since, I have remitted back the issue of cash deposit made during demonetization period back to the file of the AO for adjudication, this issue being consequential, estimation of income at the rate of 8% on cash deposits is remitted back to the file of the AO. The AO will re-examine the issue whether the assessee has earned any business income on this cash deposit or not. In term of the above, the appeal of the assessee is set aside and allowed for statistical purposes.

8. In the result, the appeal of the assessee in ITA No.1400/CHNY/2023 for assessment year 2017-2018 is allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 20th day of February, 2024, at Chennai.

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

चेन्नई/Chennai
दिनांक/Dated: 20.02.2024.
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