

**आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कटक**

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं/ITA No.355/CTK/2023

(निर्धारण वर्ष / Assessment Year :2017-2018)

Pravakar Samanta, At-Naharapur, Jajpur Town-755001	Vs	ITO, Ward Jajpur
PAN No. :ANAPS 7558 J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Mohit Sheth, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	13/03/2024
घोषणा की तारीख/Date of Pronouncement	:	13/03/2024

**आदेश / O R D E R**

This is an appeal filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 30.11.2023, passed in DIN & Order No.ITBA/NFAC/S/250/2023-24/1058346163(1) for the assessment year 2017-2018.

2. Shri Mohit Sheth, Advocate appeared on behalf of the assessee. Shri S.C.Mohanty, Sr. DR appeared on behalf of the revenue.

3. It was submitted by the Id. AR that there are three additions in dispute. First, being an amount of Rs.7,85,000/- representing SBN notes deposited during the demonetisation period in the current account and OD account of the assessee. Secondly, the addition of Rs.8,45,068/- representing the time deposit of the assessee treating the same as unexplained investment of the assessee. Thirdly, the addition of Rs.1,52,897/- representing the deduction claimed u/s.80C under Chapter VIA on the payment made towards LIC premium.

4. In regard to deposit of SBN Notes, it was submitted by the Id. AR that the turnover of the assessee was Rs.72,65,336/- and the assessee has filed the return of income by applying the provisions of Section 44AD of the Act. It was the submission that these deposits were immediately after the demonetisation was announced. It was the submission that the turnover of the assessee has been computed on the basis of VAT return and bank account and consequently these deposits of SBN notes have also been considered when determining the return of income filed by the assessee and the same has also been considered when estimating the income of the assessee. It was the further submission that for the immediately preceding assessment year also, the assessment of the assessee came to be completed u/s.143(3) of the Act accepting the returned income and in the balance sheet filed for the assessment year, the cash in hand is specifically shown as Rs.25,17,000/-. It was the submission that the cash deposit of SBN notes being part of the turnover of the assessee, no addition on the same amount is liable to be made.

5. In reply, Id. Sr. DR submitted that the assessee's case is one of non-maintenance of the books of accounts and, therefore, it is incumbent on the assessee to prove that the SBN notes were part of the turnover, which he had not done. It was the submission that in the absence of the production of books of accounts to show that the SBN notes were part of the turnover of the assessee, the addition as made and confirmed by the Id. CIT(A) is liable to be upheld.

6. I have considered the rival submissions. A perusal of the bank of accounts of the assessee, clearly shows that the cash has been

deposited on 15<sup>th</sup> November whereas the demonetisation has been announced on 8<sup>th</sup> November. Between 8<sup>th</sup> November and 15<sup>th</sup> November, there is no cash deposit. Thus, it is clear that the assessee has deposited cash only after the demonetisation. The turnover of the assessee has been determined admittedly on the basis of bank account being the current account and OD account of the assessee. In the absence of specific books of accounts, the bank account of the assessee adopts the colour of the assessee's books of accounts, wherein the said cash deposit is considered as part of the turnover of the assessee. Then the same cannot be separately and individually treated as unexplained cash in the accounts of the assessee. This being so, the addition of Rs.7,85,000/- as made by the AO and confirmed by the Id. CIT(A) stands deleted.

7. With regard to addition of Rs.8,45,068/- representing the time deposit, the Id. AR has placed before me various fixed deposit receipts. It was the submission that these time deposits were right from the assessment year 2002-2003. It was the submission that all these documents have been produced before the AO for physical verification but after verification the AO had directed the assessee to file the same through electronic media and the assessee being unfamiliar with the electronic filing at that point of time when the electronic filing system was itself new, had failed to produce the details in specific format. It was the submission that as the time deposits are running from the earlier assessment years, the same is not liable to be considered as unexplained investment in the current year. It was also the submission that the amount of Rs.8,45,068/- as adopted by the AO does not come out of the accounts

of the assessee and how the AO has determined this figure is not clear. It was the submission that the addition made by the AO and confirmed by the Id. CIT(A) is liable to be deleted.

8. In reply, Id. Sr. DR submitted that the assessee has not produced the details before the AO in electronic form and in the absence of production of the details, the AO has determined the income and has rightly added the same. It was the submission that addition made by the AO and confirmed by the Id. CIT(A) is liable to be upheld.

9. I have considered the rival submission. Though the assessee has submitted that he has produced the fixed deposits receipts showing the running of the same from the assessment year 2002-2003, there is no reference of production of such physical copies before the AO, though, admittedly, there is some reference of production of certain VAT returns. It was also noticed that the same has been filed through online in the portal before the Id. CIT(A) and the Id. CIT(A) has also not called for any remand report from the AO. This being so, in the interest of justice, this issue is restored to the file of the AO and the AO is directed to physically verify the fixed deposit receipts to determine as to whether they were of the earlier years. If the said deposits are found to be of earlier years, then addition as made would stand deleted. Further the AO is also directed to specify as to how he has determined the addition at Rs.8,45,068/- as against Rs.16,90,000/- being the total face value of the FD as on 31.03.2017. The assessee is also directed to produce the details before the AO when notice to be issued by the AO accordingly. Thus, this issue is partly allowed for statistical purposes.

10. With regard to third addition of Rs.1,52,897/- made by the AO by disallowing the deduction claimed under Chapter VIA, it was submitted by the Id. AR that the said deduction also includes deduction of 80TTA of the Act to an extent of Rs.2,897/- representing the bank interest. It was the submission that these details were also produced before the AO physically and the assessee will be able to produce the same before the AO again, if directed.

11. Ld. Sr. DR submitted that the deduction u/s.80C of the Act as claimed by the assessee have been considered by the AO himself.

12. I have considered the rival submission. With identical direction as given in respect of issue of time deposits, this issue is also restored to the file of AO for physical verification and re-adjudication after granting the assessee adequate opportunity of being heard. Thus, this issue is partly allowed for statistical purposes.

13. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 13/03/2024.

**Sd/-**  
(जार्ज माथन)  
**(GEORGE MATHAN)**  
न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 13/03/2024  
Prakash Kumar Mishra, Sr.P.S.

**आदेश की प्रतिलिपि अग्रेषित/Cop.y of the Order forwarded to :**

1. अपीलार्थी / The Appellant-  
Pravakar Samanta,  
At-Naharapur,  
Jajpur Town-755001
2. प्रत्यर्थी / The Respondent-  
ITO, Ward Jajpur
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,  
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack