



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.49/CTK/2024

Assessment Year : 2017-18

Jaya Sankar Mugada, 10/ 08, Chandanbad Street, PO: Jeypore, Dist: Koraput	Vs.	Income Tax officer, jeypore Ward, Jeypore
PAN/GIR No.ARWPM 2637 G		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 08/04/2024

Date of Pronouncement : 08/04/2024

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 10.01.2024 in Appeal No.CIT(A),Bhubaneswar-1/14400/2019-20 for the assessment year 2017-18 .

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR represented on behalf of the revenue.

3. It was submitted by Id AR that the assessee is a small time goldsmith at Jeypore. The turnover for the relevant assessment year was Rs.34,92,235/-. The assessee has not filed his return of income as his total income was below the taxable limit. The Assessing Officer had issued notice u/s.142(1) of the Act on 12.3.2018 on the ground that during the

period of demonetization i.e. 9.11.2016 to 31.12.2016, the assessee had deposited cash for an amount of Rs.13,09,000/-. The assessee had been non-responding to the notice issued. Subsequently, the Assessing Officer had examined the bank account and it was noticed that there was no demonetization currency deposited in the bank account of the assessee during the demonetization period and Rs.13,09,000/- which was the cash deposited during the demonetization period did not contain any demonetization currency. Subsequently, the Assessing Officer questioned the assessee as to the source of the deposit of Rs.13,09,000/- in the bank account of the assessee. The assessee had submitted that the deposited amounts were out of the business transaction in respect of gold jewellery and repair of the same. The Assessing Officer did not accept the explanation of the assessee and treated the cash deposited during the demonetization period only to an extent of Rs.13,09,000/- as the unexplained investment of the assessee. All other transactions were accepted. The Assessing Officer had also brought to tax the income of the assessee at 8% of the total turnover of Rs.34,92,235/-. On appeal, the Id CIT(A) directed the Assessing Officer to reduce the turnover of Rs.34,92,235/- by the addition of Rs.13,09,000/- and then to determine the net profit by applying 8%. Against the benefit given by the Id CIT(A), the revenue has not filed any appeal. It was the submission that Rs.13,09,000/- was included in the amount of Rs.34,92,235/- which was the

turnover of the assessee and as the said amount was not in demonetization currency, same was not liable to be added to the income of the assessee. It was the submission that turnover of Rs.34,92,235/- has been accepted by both the Assessing Officer and Id CIT(A).

4. In reply, Id Sr DR submitted that the addition representing Rs.13,09,000/- was the unexplained cash deposit of the assessee and the assessee having been unable to explain the cash deposit, the addition was liable to be upheld.

5. I have considered the rival submissions. A perusal of the page 1 of the assessment shows that the assessment process has been initiated by issuing notice u/s.142(1) on the basis of information available under AIMS module of ITBA, wherein, it has been shown that the assessee has deposited Rs.13,09,000/- in cash during the demonetization period. A perusal of page 7 of the assessment order shows that the turnover of the assessee has been accepted at Rs.34,92,235/-. Thus, there was no variation in the turnover as disclosed by the assessee. A perusal of the computation of the turnover also shows that the amount of Rs.13,09,000/- which has been added by the Assessing Officer is part of the turnover of Rs.34,92,235/-. The amount of Rs.13,09,000/- is the cash which has been deposited during the demonetization period. There is also cash deposit during the non-demonetization period also. The Assessing officer has accepted that the assessee is in the business of retail trading in gold and

silver ornaments and repairs of the same. The turnover of the assessee having been accepted and no demonetized currency having been deposited by the assessee during the demonetization period, just because the assessee has deposited the cash during the demonetization period will not make the cash deposit as unexplained investment of the assessee. This being so, the addition as made by the Assessing Officer and as confirmed by Id CIT(A) stands deleted.

6. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 08/04/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 09/04/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Jaya Sankar Mugada, 10/
08, Chandanbad Street, PO: Jeypore, Dist:
Koraput
2. The Respondent: Income Tax officer,
jeypore Ward, Jeypore
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack