

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "SMC" BENCH : PUNE
[THROUGH VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.1384/PUN./2023 [E-APPEAL]
Assessment Year 2017-2018

Shri Ramesh Laxman Shinde, 670, Chafe Chafe, Ratnagiri – 415 612. Maharashtra. PAN BDEPS4385L	vs.	The Income Tax Officer, Ward 1 2, New Central Revenue Bldg., 2 nd Floor, Jail Road, Ratnagiri. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Pramod S. Shingte
For Revenue :	Shri Manish Mehta

Date of Hearing :	20.03.2024
Date of Pronouncement :	30.04.2024

ORDER

This assessee's appeal for assessment year 2017-18, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1058118723(1), dated 21.11.2023, involving proceedings u/s.144 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *"On the facts and circumstances of the case and in law the Ld. C1T(A), NFAC, erred in confirming the additions made by the Assessing Officer u/s 69A of Rs. 26,43,500/- not*

accepting the justification of the appellant explaining the availability of cash with him for deposits during demonetization.

2. *On the facts and circumstances of the case and in law the Ld. CIT(A), NFAC, erred in confirming the additions by the Assessing Officer of Rs. 3,24,532/- estimated @10% of deposits (other than cash) in bank accounts during the year.*
3. *The appellant craves leave to add to, amend, alter, delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.”*

3. Both the learned representatives next invited my attention to the CIT(A)'s detailed discussion affirming the Assessing Officer's action making sec.69A r.w.s.115BBE addition of Rs.26,43,500/- as unexplained money and further assessing credit entries in his books of account of Rs.32,45,323/- @ 10% estimation, coming to Rs.3,24,532/-; respectively.

4. Learned counsel is fair enough at the outset in not pressing for the assessee's foregoing latter substantive ground (supra). Rejected accordingly.

5. Now comes the sole surviving issue of correctness of sec.69A unexplained money addition of Rs.26,43,500/- representing cash deposited during demonetization period.

Learned counsel vehemently argued that the said cash deposits in fact represent assessee's cash receipts in regular course of business activity since both the lower authorities have already invoked sec.44AB regarding the latter head herein. He thus raised an identical plea that even if the assessee is held to have not been able to prove source of these cash deposits, as a worst case, these sums represent his business receipts only.

6. The Revenue has drawn strong support from both the learned lower authorities action making the impugned addition.

7. I have given my thoughtful consideration to the foregoing rival stands and find no reason to uphold the impugned addition of Rs.26,43,500/- in entirety. This is for the precise reason that the assessee on the one hand has not been able to prove all the relevant facts by way of cogent evidence that the same represents his cash receipts in regular course of business whereas the learned lower authorities have also not been able to dispute his regular business activity wherein such receipts could not be altogether ruled out. It is thus deemed appropriate in these peculiar facts and circumstances that a *lump sum* addition of Rs.16,43,500/- deserves to be deleted and the balance amount of Rs.10,00,000/- only is to be upheld by way of estimation.

Ordered accordingly with a rider that the same shall not be treated as a precedent in any case. The assessee gets relief of Rs.16,43,500/- in otherwords. Necessary computation shall follow as per law.

8. This assessee's appeal is partly allowed in above terms.

Order pronounced in the open Court on 30.04.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 30th April, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.