

IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR “SMC” BENCH :NAGPUR [VIRTUAL HEARING]  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.49/NAG./2023  
Assessment Year 2017-2018

Shri Ajay Madhukar Ugale, 3, Bandu Soni Lay Out, Near Nagoba Temple, Ring Road, NAGPUR. PIN – 440 022. Maharashtra PAN AADPU2991F	vs.	The Income Tax Officer, Ward – 1(5), MECL Bldg., Dr. Baba Saheb Ambedkar Bhavan, Seminary Hills, Nagpur – 440 006. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	22.03.2024
Date of Pronouncement :	06.05.2024

**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/250/2022-23/1047999768(1), dated 14.12.2022, involving proceedings u/s.144 of the Income Tax Act, 1961 (in short “the Act”).

Case called twice. None appears at assessee’s behest. He is accordingly proceeded ex-parte.

2. It emerges at the outset that the relevant facts herein regarding the assessee’s sole substantive grievance seeking to reverse both the learned lower authorities action

making sec.68 r.w.s.115BBE addition of Rs.1,95,000/-; are in a narrow compass indeed. The Assessing Officer admittedly made the corresponding addition of Rs.8,68,100/- representing assessee's cash deposits made during demonetization period. And that the Ld. NFAC has already granted him a substantial relief by restricting the said addition of Rs.8,68,100/- to Rs.1,95,000/- as under :

4. I have considered the facts of the case, records and submissions of the appellant.

**4.1 Ground No. 1** relates to the addition on the following issue:

(i) Rs.868100/- on account of cash deposit of demonetized currency after the demonetization period.

4.1.1 The AO observed that the appellant had not filed the return of income for AY 2017-18 and had deposited huge cash in the bank accounts during the demonetization period. Accordingly, the assessment proceedings were continued against the appellant. During the course of assessment proceedings, the statement of the appellant was recorded u/s 131 of the I.T Act, 1961 wherein, the appellant stated that he was engaged in to the business of wholesale supply of Pan Material, cigarette and general items during FY 2016-17. The appellant had submitted that the cash deposits during the year were out of the cash sales of the business and past savings. The appellant did not submit any further details in this regard. Accordingly, the AO made the addition of Rs. 868100/- on account of SBN deposited after demonetization.

4.1.2 During the course of appellate proceedings, the appellant had submitted the copy of bank statement, certificate from bank regarding the various denominations of notes deposited and the deposit slips of deposits made after demonetization. The appellant had prepared a chart reproduced in the submissions in para 3 above according to which it had claimed that it had deposited SBNs of Rs. 468000/- as against the amount of Rs. 868100/- considered by the AO. Following observations are made from these documents and the chart submitted by the appellant:

(i) The appellant had not considered the amounts of Rs. 20000/- on 01.12.2016 and of Rs. 42000/- on 02.12.2016 of denomination of Rs. 1000 while calculating the

amount of Rs. 468000/- of SBNs deposited as per his calculation.

(ii) It is further observed that neither the deposit slips nor the certificate of the bank identifies the denominations of Rs. 500 submitted in SBNs or new currency. However, the appellant had considered the denominations of Rs. 500 notes as SBNs up to 19.11.2016 only and not after this period, however, there are deposits of Rs. 500 notes even after this period.

(iii) It is observed that the appellant had deposited the SBNs of denominations of Rs. 1000 till 02.12.2016.

4.1.3 In view of the above facts & observations, the SBNs deposited by the appellant are determined as under:

(i) The deposit of SBNs of Rs.468000/- worked by the appellant in the above chart is enhanced by Rs.62000/- as pointed in para 4.1.2(i).

(ii) There is no specific way to determine exactly up to what time lines the denominations of Rs.500 notes of SBN have been deposited.

It is observed that the appellant had started depositing the denomination of Rs.2000 new currency from 17.11.2016 onwards, but the denomination of Rs.1000 SBNs continued till 02.12.2016. The appellant had considered the Rs.500 notes in SBNs till 19.11.2016. During the period from 21.11.2016 to 02.12.2016 the appellant had deposited Rs.500 notes not considered as SBNs amounting to Rs.151500/-. In these facts of the case, it can be presumed that the appellant had not deposited any old denomination Rs.500 notes after 02.12.2016 as the quantity deposited after this date is not very high and there are no SBNs of any other denomination deposited after this period. During the period 21.11.2016 to 02.12.2016 the whole of Rs.500 denomination notes cannot be considered to be new, as appellant is depositing mix of new & old currency SBNs in the denomination of Rs.2000 & Rs.1000 during this period. The appellant had deposited Rs.76000/- on 21.11.2016, Rs.60000/- on 01.12.2016 and Rs.9000/- on 22.11.2016, whereas the amounts deposited on other dates are very low. The possibility of old currency notes in these huge deposits of Rs.500 SBNs cannot be ruled out. Accordingly, it is estimated that the appellant had deposited and amount of Rs.75000/- (approx. 50% of the amount of Rs.151500/-) in old currency of Rs.500 SBNs.

In view of the above discussion, the total SBNs deposited by the appellant between the period 10.11.2016 to 30.12.2016 are worked at Rs.605000/- (Rs.468000 + 62000 + 75000).

4.1.4 The appellant had submitted that it had deposited the SBNs out of the sale proceeds of the business and personal old savings. The appellant has even filed the affidavit of his wife that she has given her husband an amount of Rs.210000/- out of

her personal savings of past years which were kept in the denominations of Rs.500 & Rs.1000. It is observed that the appellant is having turnover of business of more than Rs.1 Crore. The average daily turnover of the appellant will be about Rs.3.5 Lakhs. It is observed from the bank statement of the appellant it is depositing amounts in the range of Rs.50000/- to Rs.1 Lakhs after every 2-3 days. The appellant had made last deposit before demonetization of Rs.45000/- on 07.11.2016. Thus, the appellant had not deposited any amount out of sales on 7<sup>th</sup> & 8<sup>th</sup> of November'2016. Thus, the appellant might have some regular cash in hand and the sale receipts of 07<sup>th</sup> & 08<sup>th</sup> November'2016 in demonetized currency, which was deposited subsequently. As per the pattern of bank deposits made by the appellant, this amount is estimated at Rs.200000/-. Further, the appellant & the family could have the past savings and the appellant had submitted affidavit of his wife in this regard. As per the speech of the Hon'ble Prime Minister, the demonetized currency up to Rs.2.5 Lakhs will not entail any questions was announced publicly. Accordingly, the affidavit of the wife submitted by the appellant, although self-serving evidence, hereby, is taken into cognizance and the appellant is allowed the benefit of Rs.2.1 Lakhs as stated in the affidavit for making these deposits. Accordingly, the appellant is allowed the benefit of Rs.4.1 Lakhs deposited in SBNs out of the total deposits of Rs.605000/- made by the appellant. Accordingly, the addition of Rs.868100/- made by the AO on account of SBNs deposited by the appellant is restricted to Rs.195000/-. This ground of appeal is "partly allowed".

3. Learned DR has strongly supported the impugned addition. The fact however remains that keeping in mind the assessee's socio-economic status in light of NFAC's findings having already granted substantial relief to him; further accumulation of cash in his hands at the time of demonetization could not be altogether ruled-out. Faced with this situation, this tribunal is of the considered opinion that a lump sum addition of Rs.1.25 lakhs only out of that in question of Rs.1,95,000/- would be just and proper with a rider that the instant estimation shall not be treated as a precedent. The assessee gets relief of Rs.65,000/- only.

Necessary computation shall follow as per law. Ordered accordingly.

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

Order pronounced in the open Court on 06.05.2024.

[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 06<sup>th</sup> May, 2024

VBP/-

Copy to

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

//By Order//

//True Copy //

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

S.No.	Details	Date	
1	Draft dictated on	03.05.2024	Sr.PS
2	Draft placed before author	06.05.2024	Sr.PS
3	Draft proposed & placed before the Second Member	06.05.2024	J.M.
4	Draft discussed/approved by Second Member	06.05.2024	A.M.
5	Approved Draft comes to the Sr. PS/PS	06.05.2024	Sr.PS
6	Kept for pronouncement on	06.05.2024	Sr.PS
7	Date of uploading of Order	.05.2024	Sr.PS
8	File sent to Bench Clerk	.05.2024	Sr.PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		