

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 853/Bang/2024
Assessment Year : 2017-18

Smt. Dharmappa Anvitha, No. 2907, Puspagiri, 23 rd Main, 4 th Cross, Vijaynagar 2 nd Stage, Mysore – 570 017. PAN: AZSPA2932J	Vs.	The Income Tax Officer, Ward – 1 (2), Mysore.
APPELLANT		RESPONDENT

Assessee by	:	Shri S.V. Ravishankar, Advocate
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for the Department

Date of Hearing	:	03-06-2024
Date of Pronouncement	:	13-06-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order passed by the NFAC, Delhi dated 21.03.2024 for A.Y. 2017-18.

2. Brief facts of the case are as under:

2.1 The assessee is an agriculturist having coffee plantation of 7.3 acres at Sakleshpur, Hassan. During the relevant year under consideration, assessee declared net agricultural income of

Rs.8,07,620/-. The assessee had claimed expenditure of Rs.10,38,000/-. The case was taken up for scrutiny to verify the cash deposits during demonetisation period and substantially higher agricultural income as compared to preceding year. Notices were issued to calling upon details for necessary verification to the assessee, in response to which the assessee submitted copies of RTC through e-proceedings.

2.2 The Ld.AO observed that assessee deposited Rs. 13 Lakhs during the demonetisation period in the Canara Bank account held by the assessee. The Ld.AO disallowed the entire amount as unexplained cash credits as assessee had not explained the source of the deposits.

2.3 Further, the Ld.AO also disallowed the agricultural income of Rs.8,07,620/- by holding that sufficient proof in support of the claim such as RTC for the relevant year had not been filed.

2.4 Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

2.5 The Ld.CIT(A) dismissed the claim of assessee by observing as under:

“5.6 It may not be out of place to mention here that the year under consideration (FY 2016-17) was a crucial year in the country's economy, for, with demonetization announced, there was hectic transfer of old-currency notes through various channels to regularize the unexplained and undisclosed income in certain cases. For this reason, the Department had launched various measures such as enforcement drives and Operation Clean Money (OCM) on 31.01.2017 to analyze the data of persons who deposited

large- sums of cash and whose Returns of income were not in sync with such deposits.

5.7 During the ongoing appellate proceedings, appellant only filed one brief written submission reproduced supra reiterating the contention made by her before the AO that she is an agriculturist having a coffee plantation in Sakleshpur Taluk of Hassan district, Karnataka and that she declared Rs.18,45,620/- as gross agricultural receipts on which expenses of Rs.10,38,000/- were claimed. She also claimed that she would be attaching the land records within 2-3 days. However, no details have been provided till date. In grounds no. 3 and 4 of appeal raised, the appellant seems to have some confusion regarding the nature of assessment made in her case as she claims that the order of reassessment is bad in law and void ab initio as the AO had no reason to believe....and further that it is bad for want of mandatory sanction of the competent authority which if obtained was not in accordance with law. However, the impugned Order is not a reassessment Order u/s 147, rather it is an Assessment Order passed u/s 143(3) of the Act.

5.8 The fact is that the appellant had claimed to have earned exempt/agricultural income during the year and made cash deposits in her bank account during demonetization period, but could provide no details with corroborative evidence regarding agricultural income claimed and no satisfactory explanation with regard to the nature and source of cash deposit. The only document presented before the AO was an RTC of earlier period which could not establish whether the land was nil in her name during the period under consideration. As seen, she sought 'few days' time before the AO and similarly sought time during appellate proceedings but clearly, for a period of over 5 years could not prove her contentions. Her attitude of either not complying at all to statutory notices or complying by seeking time appears to be only an attempt to bide time. The appellant has not brought forth any credible evidence regarding the claim of agricultural income and the source of cash deposits. Details such as land holding, cultivation carried out, purchase and sale documents and so on are the bare minimum details required to consider the claim of agricultural income. As for cash deposits claimed to have been made from sale proceeds of agricultural produce and past savings, the appellant failed to provide any evidence for the same whatsoever. Even during assessment proceedings, she had not provided any details and information was

gathered by the AO on the basis of inquiry made u/s 133(6) of the Act. The fact that cash has no colour places a greater onus on the appellant to explain the same with supporting evidence, which she failed to discharge. In the absence of any corroborative evidence/details, the arguments of the appellant carry no strength.”

2.6 Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before this *Tribunal*.

3. The Ld.AR at the outset submitted that the cash deposited into the bank accounts are out of the sale proceeds of coffee and pepper. He further submitted the details filed by the assessee during the first appellate proceedings have not been verified. The Ld.AR submitted that the RTC copies were furnished that was sufficient to establish the agricultural produce during the relevant year under consideration. He prayed for remand of the appeal in the interest of justice for consideration of the evidences filed by assessee to substantiate its claim.

On the contrary, the Ld.AR relied on the orders passed by authorities below.

We have perused the submissions advanced by both sides in the light of records placed before us.

4. Admittedly, the necessary verification in respect of the agricultural income added in the hands of the assessee as well as the cash deposits made during the demonetisation period has not been verified by the authorities below. Undoubtedly, the CBDT Circular to understand the cash deposited during the demonetisation period has to be considered before making addition in the hands of the assessee.

5. The assessee is directed to furnish all relevant documents establishing the agricultural income earned during the relevant year and the cash deposited into the bank accounts during the demonetisation period. The Ld.AO is directed to verify all the details having regards to the evidences furnished by the assessee in the light of the following CBDT Circular/ instructions.

- a) The 1st instruction was issued on 21/02/2017 by instruction number 03/2017.
- b) The 2nd instruction was issued on 03/03/2017 instruction number 4/2017.
- c) The 3rd instruction was in the form of a circular dated 15/11/2017 in F.No. 225/363/2017-ITA.II and the last one dated 09/08/2019 in F.no.225/145/2019-ITA.II.

6. The assessee is directed to establish all relevant details to substantiate its claim in line with the above applicable instructions, to the facts in present case. We are aware of the fact that not every deposit during the demonetisation period would fall under category of unaccounted cash. However the burden is on the assessee to establish the genuineness of the deposit in order to fall outside the scope of unaccounted cash.

The Ld.AO shall verify all the details / evidences filed by the assessee based on the above direction and to consider the claim in accordance with law.

Needless to say that proper opportunity of being heard must be granted to the assessee. The assessee may be granted physical hearing in order to justify its claim.

Accordingly, the grounds raised by the assessee stands allowed for statistical purposes.

In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 13th June, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 13th June, 2024.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore