

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

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

<b>ITA No. 641/Bang/2024</b>
<b>Assessment Year : 2017-18</b>

Shri Govind Ram, Ramdev Pharma No. 7, 1 <sup>st</sup> Floor, SDM Lane, Manavarthipet, Sultanpet Cross, Chickpet, Bangalore – 560 053. <b>PAN: AQSPG0728M</b>	<b>Vs.</b>	The Income Tax Officer, Ward – 2(2)(7), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri R. Chandrashekar, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Department

Date of Hearing	:	07-05-2024
Date of Pronouncement	:	07-06-2024

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of the order passed by NFAC dated 13.02.2024 for A.Y. 2017-18 on following grounds of appeal:

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The Learned CIT(A) ought to have deleted the addition amounting to Rs.9,65,000/-, since the deposits of demonetized notes is out of cash balance as per books of accounts.</i>	Rs. 7,45,462/-
2.	<i>The Learned CIT(A) did not appreciate the copy of the Cash Book containing the transactions from 01-04-2016 to 31-03-2017 which explains the receipt of source.</i>	
3.	<i>The Learned CIT(A) failed to appreciate that the Learned Assessing Authority did not reject the books of accounts, which are also duly audited as required u/s.44AB of the Act, and therefore, on the basis of said books of accounts the deposits stood explained.</i>	
4.	<i>The Learned CIT(A) erred in confirming the addition made u/ s. 68 by the Learned Assessing authority and section 68 of the Act is wholly in applicable to the appellant's case, as no credit remained unexplained.</i>	
5.	<i>The Learned CIT(A) erred in confirming the application of section 115BBE of the Act in the appellant's case.</i>	
6.	<i>The learned CIT(A) ought to have deleted the Surcharge levied in the appellant's case.</i>	
7.	<i>The Learned CIT(A) erred in confirming the levy of interest u/s. 234B of the Act and interest cannot be levied in respect of additions made under 'Other Sources'.</i>	Rs.2,46,656/-
8.	<i>Appellant Prays leave of this Hon'ble Tribunal to add/modify/delete any ground or grounds at the time of hearing.</i>	
<i>Total tax effect (see note below)</i>		Rs.9,92,118/-

**2. Brief facts of the case are as under:**

**2.1** The assessee filed his Return of Income in ITR-3 for the AY 2017-18, on 30/10/2017 declaring total income of Rs. 4,96,170/-. Subsequently, the case was selected for complete scrutiny under CASS. Accordingly, notice u/s 143(2) of the IT Act, 1961 was issued on 29.09.2018 which was duly served on the assessee. Subsequently, notice u/s 142(1) of the IT Act. 1961 dated 04/02/2019, 20/08/2019 and 07/12/2019 was issued to the assessee calling for relevant details applicable during the F.Y.2016-17 relevant to the A.Y. 2017-18. In response to the said notice the assessee submitted partial details.

**2.2** From the details filed, the Ld.AO noted that the assessee has made cash deposit of Rs.22,29,500/- during the demonetisation period from 09.11.2016 to 30.12.2016. The assessee was asked to provide the sources for the cash deposit of Rs.22,29,500/- during demonetisation. It is recorded by the Ld.AO that the assessee did not submit any details satisfactorily explaining the sources of the cash deposit. Therefore Rs. 22,29,500/- is treated as unexplained credit as per the provisions of section 68 of the IT Act and added to the returned income and brought to tax.

**2.3** On an appeal before the Ld.CIT(A), the Ld.CIT(A) dismissed the appeal of assessee by observing that details like cash book, ledger extracts of regular books were filed. The Ld.CIT(A) accepted the cash deposited in new currency of Rs. 12,64,000/-. Balance of Rs.9,65,500/- that was deposited in SBN 500, 1000 notes were not accepted.

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

**3.** The Ld.AR submitted that assessee may be granted an opportunity to explain the issue that led to the addition based on the evidences in the interest of justice.

**3.1** The Ld.DR though objected to the argument of the Ld.AR could not controvert the fact that the Ld.AO has not carried out the verification in respect of the cash deposited during demonetisation period based on the circulars issued by CBDT.

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

**4.** On merits of the case, it is noted that assessee had made cash deposits in Bank account in SBN to the tune of Rs.9,65,500/- during the demonetisation period. The authorities below did not verify any documents that could have explained the cash deposits, and made addition u/s. 69A of the act. The Ld.AR submitted that the deposits are out of sale which is verifiable. In our opinion, evidences are required to be verified in the light of the circular issued by the CBDT.

**5.** It is noted that various standard operating procedures has been laid down by the Central Board of Direct Taxes issued from time to time in case of operation clean. The 1st of such

instruction was issued on 21/02/2017 by instruction number 03/2017. The 2nd instruction was issued on 03/03/2017 instruction number 4/2017. 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. These instructions gives a hint regarding what kind of investigation, enquiry, evidences that the assessing officer is required to take into consideration for the purpose of assessing such cases.

**6.** In one of such instructions dated 09/08/2019 speaks about the comparative analysis of cash deposits, cash sales, month wise cash sales and cash deposits. It also provides that whether in such cases the books of accounts have been rejected or not where substantial evidences of vide variation be found between these statistical analyses. Therefore, it is very important to note that whether the case of the assessee falls into statistical analysis, which suggests that there is a booking of sales, which is non-existent and thereby unaccounted money of the assessee in old currency notes (SBN) have been pumped into as unaccounted money.

**7.** Instruction 21/02/2017 issued by the CBDT suggests some indicators towards verifying the suspicion of backdating of cash. It also suggests indicators to identify abnormal jump in cash trials on identifiable persons as compared to earlier history in the previous year. Therefore in our opinion it is important to examine whether assessee falls into any of these categories and

transfer of deposit of cash is not in line with history of transactions in the preceding assessment years.

**8.** 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 07<sup>th</sup> June, 2024.**

Sd/-  
(LAXMI PRASAD SAHU)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 07<sup>th</sup> June, 2024.  
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore