

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **559/CHNY/2024**
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Naveen,
2A, Velavan Nagar, Second
Street, SRP Mill Post,
Saravanampatti,
Coimbatore – 641 035.

The Income Tax Officer,
Vs. Non-Corporate Ward 2(5),
Coimbatore.

PAN: AUQPN 9024R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N. Arjun Raj, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri N. Sanjay Gandhi, JCIT

सुनवाई की तारीख/Date of Hearing : 13.06.2024
घोषणा की तारीख/Date of Pronouncement : 13.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order passed of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) in Order No.ITBA/NFAC/S/250/2023-24/1058953473(1) dated 21.12.2023. The assessment was framed by the Income Tax Officer, Non-Corporate Ward 2(5), Coimbatore

for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 05.12.2019.

2. At the outset, it is noticed that the appeal of assessee is time barred by 14 days. It is noticed that the order of CIT(A)-NFAC is dated 21.12.2023 and as per Form 36, the assessee has noted the date of communication of the order as 21.12.2023. Therefore, the last date of filing of appeal expired on 19.02.2024 but assessee filed appeal before Tribunal on 04.03.2024. Thereby, there is a delay of 14 days. The assessee has stated the following reason for delay in its condonation petition:-

The impugned order dated 21.12.2023 passed by the NFAC ought to have been challenged on or before 19.02.2024 but the appellant could not file the appeal within the stipulated time due to an inadvertent error in the office of the Appellant who had missed the email id of the hearing notice as well as the order of the First Appellate Authority and the same was noticed by the office belatedly.

The Appellant on receipt of the information regarding passing of the order had immediately taken steps to file an appeal before the Income Tax Appellate Tribunal and approached the Counsel on Record at Chennai through the Chartered Accountant who had filed the appeal belatedly with a small delay of 14 days. In this, regard it is submitted that the delay in filing the appeal was due to the reasons beyond the control of the appellant and also due to the reason being the Appellant residing outside Chennai.

When this was confronted to Id. Senior DR, he could not controvert the above fact situation. But, due to smallness of delay and the

reason stated, we are of the view that reason stated is reasonable and there is sufficient cause by virtue of which, delay happened. Hence, we condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is as regard to the order of CIT(A)-NFAC confirming the addition made by AO being cash deposits in specified bank notes during demonetization period amounting to Rs.21.86 lakhs as unexplained money u/s.69A of the Act.

4. We have heard rival contentions and gone through facts and circumstances of the case. The AO framed assessment on the basis of reply of assessee that the assessee is an individual and the nature of business is payment of registration fee to Tamil Nadu Registration Department. It was explained that registration fee that the client should pay are collected from them in the form of cash or bank transfer along with service charges. Wherever cash is received, these amounts are deposited into assessee's proprietary concern namely Sharan Ebilling and Epayment and then it is paid to Tamil Nadu Registration Department in their portal www.tnreginet.gov.in through bank in the form of e-banking. Apart from that nothing was explained but filed computation of income, bank statements, profit &

loss account and balance sheet. The AO framed assessment and made addition of demonetized cash deposit during demonetization period in specified bank notes amounting to Rs.21.86 lakhs u/s.69A of the Act. The assessee referred to some notification released on 10.11.2016 that the demonetized notes in the currency of 500 and 1000 can be used for payment of Government fees, charges, penalties and taxes but the CIT(A)-NFAC was not convinced and assessee could not further explain anything before the CIT(A) and hence, the action of the AO was confirmed by the CIT(A)-NFAC, confirming the addition. Aggrieved, assessee is in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the assessee. We noted that neither the AO nor the CIT(A)-NFAC has adjudicated the issue in proper perspective and by a speaking order. The CIT(A)-NFAC simpliciter recorded the finding based on just assessment. Even the assessee has not provided complete details before the AO like nexus of the amount received from clients and the same is deposited in the assessee's bank account. The Id.counsel for the assessee only requested that matter can be restored back to the file of the AO, to which the Id.Senior DR has not objected. In term of the above factual aspect,

we set aside the order of the AO and that of the CIT(A)-NFAC and remand the matter back to the file of the AO for fresh adjudication.

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

Order pronounced in the open court at the time of hearing on 13th June, 2024 at Chennai.

Sd/-

(एस. आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 13th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.