

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.429/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

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| Shri Appusamy Mani 3/35, Mandakapalayam, Kumaramangalam PO, Tiruchengode-637 205. | बनम/ Vs. | ACIT Circle-1 Namakkal. |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AILPM-4646-F | | |
| (आपीलार्थी/ Appellant) | : | (प्रत्यर्थी/ Respondent) |

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| आपीलार्थी की ओरसे/ Appellant by | : | Ms. Nikitha. A (Advocate) -Ld.AR |
| प्रत्यर्थी की ओरसे/ Respondent by | : | Shri R.Mukundan (JCIT)-Ld. DR |

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| सुनवाई की तारीख/ Date of Hearing | : | 12-06-2024 |
| घोषणा की तारीख/ Date of Pronouncement | : | 14-06-2024 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 22-11-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29-12-2019. In the present appeal, the assessee is aggrieved by confirmation of addition of

Rs.7.92 Lacs which represent cash deposits during demonetization period. The registry has noted delay of 29 days, which stand condoned.

2. The Ld. AR, Ms. Nikita A., advanced arguments supporting the case of the assessee whereas Ld. Sr. DR supported the orders of lower authorities. The Ld. AR submitted that the assessee was doing business and cash deposits were duly supported by the cash book. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

3. During the course of assessment proceedings, the assessee submitted that cash available as on 08-11-2016 as per cash book was deposited in the bank accounts during demonetization period. The assessee furnished the details of the same with sources for the availability of cash balance as on 08-11-2016. However, Ld. AO held that cash to the extent of Rs.20.61 Lacs was not proved by the assessee with documentary evidences and therefore, the same was added to the income of the assessee u/s 68.

4. During appellate proceedings, the assessee submitted that it admitted income u/s 44AD and u/s 44AE. The cash deposits pertained to the above businesses only. The assessee submitted that it was carrying out business since the year 2002 and regularly filing income tax return which fact was not considered by Ld. AO. The assessee submitted that it had deposited Specified Bank Notes (SBN) for Rs.9.92 Lacs only whereas the deposits in other currency were Rs.3.45 Lacs. Thus total cash deposit during demonetization period was Rs.13.37 Lacs only. The Ld. CIT(A) noted that the assessee carried out business of riging under name and style of M/s Jothi Borewell and declared income of Rs.11.02 Lacs. The assessee's case was not subjected to Tax Audit u/s 44AB.

The assessee admitted gross receipts of Rs.143.96 Lacs. The income admitted u/s 44AD and 44AE was Rs.10.84 Lacs and Rs.0.67 Lacs respectively. However, the opening cash in hand as on 01-04-2016 was only Rs.1.81 Lacs. So, there was no possibility of having huge cash balance as on 08-11-2016 to the extent of Rs.20.61 Lacs. The assessee did not maintain books of accounts and therefore, the plea of sufficiency of cash balance could not be accepted. The assessee deposited cash of Rs.9.92 Lacs in SBNs. The reasonable cash that could be allowed to the assessee would be Rs.2 Lacs and accordingly, the remaining amount of Rs.7.92 Lacs would be addition u/s 69A instead of Sec.68. The Ld. AO was directed to exclude the same from gross receipts of business. Aggrieved, the assessee is in further appeal before us.

5. From the facts, it emerges that the assessee is carrying out business activity since the year 2002 and is a regular income tax assessee. In this year, the assessee has declared income on presumptive basis u/s 44AD and u/s 44AE for Rs.11.02 Lacs. To substantiate the cash deposit, the assessee furnished cash book during the course of assessment proceedings. It is also noteworthy that the assessee has deposited aggregate cash of Rs.13.37 Lacs out of which deposit in SBNs is Rs.9.92 Lacs. The source of other deposits have been accepted by Ld. CIT(A). The carrying out of business being admitted fact and the source of other deposit being accepted from business activity only, the deposits in SBNs alone could not be held to be unexplained money of the assessee and the claim cannot be rejected partially. The deposits are duly substantiated by the cash books as well as admitted income. Therefore, impugned addition of Rs.7.92 Lacs as sustained in the impugned order stand deleted.

6. The appeal stand allowed.

Order pronounced on 14th June, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 14-06-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF