

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

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

ITA No. 852/Bang/2024
Assessment year : 2017-18

Mayakonda Ghani Mohammed Mujahid, 25, Muslim Hostel Complex, Chetana Hotel Road, Davangere – 577 002. PAN : AFQPM 2469C	Vs.	The Income Tax Officer, Ward 3, Davangere.
APPELLANT		RESPONDENT

Appellant by	:	Shri B. Chandrasekhar, Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	03.06.2024
Date of Pronouncement	:	19.06.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 08.03.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18.

2. The sole issue involved in this appeal is cash deposits in old SBNs during the demonetisation period from 13.11.2016 to 8.12.2016 of Rs.13,73,500 treated as unexplained cash credit u/s. 68.

3. Briefly stated the facts of the case are that the assessee is an auditor and tax consultant and derives income from profession. He filed his return of income admitting income of Rs.1,88,,970. The case was selected for scrutiny and statutory notices were issued to the assessee. The assessee filed income tax return and commercial tax return. Cash in old SBNs were deposited on different dates totalling to Rs.13,73,500. The AO noted that these old SBNs of Rs.500 and Rs.1,000 was demonetised on the midnight of 08.11.2016 and the cash deposits in old SBNs made by the assessee are not worth their value and were unexplained by the assessee. He therefore made addition u/s. 68 for want of proper explanation and applied tax u/s. 115BBE of the Act.

4. During the appellate proceedings the assessee filed detailed submissions and also relied on various case laws. The Id. CIT(Appeals) after considering the submissions of the assessee noted that assessee could not demonstrate with details that the assessee collected money from clients for payment of taxes. Accordingly he confirmed the entire amount as unexplained money u/s. 69A of the Act and dismissed the appeal of the assessee.

5. The Id. AR submitted that the assessee is an auditor and tax consultant and collected money on behalf of clients for payment of commercial tax and income tax and submitted bank statements, copy of

ledger, bank account, cash book and written arguments which is placed at pages 1 to 161 of PB. He submitted that the assessee's clients have deposited cash directly in his bank account for payment of Commercial Tax and Income Tax which were paid by the assessee on behalf of his clients which is evident from the bank statement and the assessee has not got any benefit directly, it his obligations. Some of the clients are not aware about payments of tax through online. He further submitted that if a chance is given to assessee, he undertook to substantiate the case of the assessee with evidence before the lower authorities.

6. The Id. DR relied on the order of lower authorities and submitted that both the lower authorities have decided the issue in the light of CBDT instructions for assessing the cash deposits made during the demonetisation period and objected to sending back the matter to lower authorities.

7. Considering the rival submissions, we note that the assessee is an auditor and tax practitioner and filed returns of his clients. During the demonetisation period the assessee deposited cash of Rs.13,73,500 which has been treated as unexplained money. We have gone through the bank statement filed by the assessee and we noted that frequently the assessee has paid taxes but it has not been verified and the assessee has also not filed KYC details of clients from whom money was collected. Considering the request of the assessee and in the interest of justice, we remit the issue to the AO for fresh consideration and decision as per law in the light of CBDT instructions on deposit of cash

during demonetisation period. The assessee is directed to file necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and in case of further default, the assessee shall not be entitled to any leniency.

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

Pronounced in the open court on this 19th day of June, 2024.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th June, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.