

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.953/Bang/2024
Assessment Years : 2017-18

Smt. Goworamma Lingappa Manjula, No.15-1, Dasara Colony, Jayanagar 2 nd Block, Bangalore-560 011. PAN – BDWPM 5408 E	Vs.	The Income Tax Officer, Ward – 7(2)(1), Bangalore. The Jt. Commissioner of Income Tax, NFAC, Delhi.
APPELLANT		RESPONDENT

Assessee by	:	Shri Guruswamy H, ITP
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for the Department (DR)

Date of hearing	:	19.06.2024
Date of Pronouncement	:	20.06.2024

ORDER

PER SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

The present appeal of the assessee is arising from the order passed by the Addl/JCIT (A), Gwalior dated 21/02/2024 in DIN No. ITBA/APL/S/ 250/2023-24/1061269696(1) for the assessment year 2017-18.

2. Facts of the case are that the assessee is a lady could not file income tax return for the year under consideration and has deposited an amount of Rs.1,73,985/- in her Canara Bank account and Karnataka State Co-operative Apex Bank. After receiving the information from the

Department, the AO assumed jurisdiction over the assessee's case and completed the assessment ex-parte. During the course of assessment proceedings the AO observed that assessee has deposited an amount of Rs 1,73,935/- in her bank accounts maintained with Canra Bank and Karnataka State Cooperative Apex Bank. The AO added this amount as unexplained cash and framed the assessment.

3. Aggrieved with the order of the AO, the assessee preferred the appeal before the NFAC.

4.1 The Id. NFAC has issued 3 notices to the assessee and after that dismissed the appeal of the assessee ex-parte without dealing with the merits of the case in terms of the provisions of sec. 250(6) of the Act.

5. Aggrieved with the order of the NFAC, the assessee preferred an appeal before the Tribunal. There is a small delay of 27 days, in filing the appeal before us, considering the reasons mentioned in the Condonation application filed by assessee we hereby condone the delay of 27 days and proceed with the matter.

6. The Id. Counsel for the assessee pointed out that in view of the CBDT Instruction No.3 of 2017 dated 21/02/2017, the Ld.AO has wrongly assumed the jurisdiction over the case of the assessee. The Id. Counsel for the assessee contended that in this Instruction CBDT has debarred the revenue officers to conduct any enquiry in those cases, where the cash deposit is up to Rs.2.5 lakhs.

7. The Id. DR relied upon the order of the authorities below.

8. After considering the rival submissions, we would like to quote the CBDT Instruction as under:-

Source Specific General Verification Guidelines*“1. Cash out of earlier income or sayings*

1.1 In case of an individual (other than minors) not having any business income, no further verification is required to be made if total cash deposit is up to Rs. 2.5 lakh. In case of taxpayers above 70 years of age, the limit is Rs. 5.0 lakh per person. The source of such amount can be either household savings/savings from past income or amounts claimed to have been received from any of the sources mentioned in Paras 2 to 6 below. Amounts above this cut-off may require verification to ascertain whether the same is explained or not. The basis for verification can be income earned during past years and its source, filing of ROI and income shown therein, cash withdrawals made from accounts etc.”

8.1 On perusal of the above instruction, it would be amply clearly that this instruction has been issued by Ministry of Finance immediately after demonetization and hence binding on the department. The title of the instruction is Standard Operating Procedure to be followed by the AOs in verification of cash transaction during demonetization period. Certain paras of this instruction are very crucial for cases like this. For instance in para 5.6, it has been mentioned that the AO should follow the sources ‘specific verification guidelines’ as given in annexure.

8.2 On perusal of clause 1.1 annexed to the instruction, as extracted herein above, would reveal that in case of an individual (other than minors) not having any business income, no further verification is required to be made if total cash deposit is up to Rs.2.5 lakhs.

8.3 When we apply the instruction of CBDT to the facts of present case it is abundantly clear that the AO has framed the impugned assessment in utter disregard of the CBDT guidelines, which is not permissible in law. There are so many decisions of the coordinate Benches wherein it has been held that the no addition can be made in such cases which are covered by the CBDT instruction, granting

exemption of Rs2,50,000/-. Reference can be made to the judgment of coordinate Bench in ITA Number1716/Del/2020 dated 20.09.2022 in the case of Amar Singh Vs ACIT International Taxation. Therefore, we hold that the AO has erred in investigating the matter further and hence, exceeded his jurisdiction; therefore, we allow the appeal of the assessee.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in court on 20th day of June, 2024

Sd/-

(CHANDRA POOJARI)
Accountant Member

Sd/-

(SHRI PRAKASH CHAND YADAV)
Judicial Member

Bangalore,
Dated, 20th June, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore