

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'D' BENCH: CHENNAI**

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
**BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.833/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2017-18

**Kulanthaivelu Elango,**  
432, NGO Colony, Aruppukottai,  
Virudhunagar District,  
Tamil Nadu – 626 101.  
**[PAN: AAFPE-5425-L]**

**The Asst. Commissioner of**  
**Vs. Income Tax,**  
Circle-1,  
Virudhunagar.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri G. Baskar, Advocate  
: Shri G. Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.05.2024

घोषणा की तारीख /Date of Pronouncement

: 22.05.2024

आदेश / **ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2017-18 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 23.02.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29.12.2019.

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2. The only effective ground of appeal in assessee's appeal is against confirming Rs.31,00,000/- cash deposit in bank account as unexplained cash of SBNs during the demonetization period u/s 68 of the Act by Ld CIT(A) out of Rs.39,00,000/- addition made by the Assessing Officer .

3. The brief facts of the case are that the assessee has deposited Rs.39,00,000/- in the form of SBN after demonetization i.e. on 08.11.2016 as under:

<b>Date</b>	<b>Account No.</b>	<b>Amount deposits</b>
13.11.2016	10630610754	9,00,000
25.11.2016	0901201001636	3,00,000
13.11.2016	10848508277	9,00,000
12.11.2016	1249101035145	9,00,000
12.11.2016	1249201011580	9,00,000

4. The assessee has explained the source of cash deposit as opening cash balance of Rs.39,27,298.77/- as on 08.11.2016. However, the A.O has rejected the assessee's explanation on the ground that the assessee books of accounts are not audited and the opening balance shown in cash book is Rs. 39,27,298.77/- as on 08.11.2016 and the cash cannot be in 77 paise. The Ld. CIT(A) has

decided the appeal ex-parte allowing 20% of the cash deposit as explained source of cash deposit for the reason that the assessee is involved in the business of civil construction and some cash must be available to make expenses in cash like labour and material purchase .

5. The Ld. A.R has submitted that the Ld. CIT(A) has decided the appeal ex-parte and therefore, one more opportunity may be given to prove his case.

6. On the other hand, the Ld. D.R argued that the assessee has not made any submission, despite of sufficient opportunities provided to the assessee.

7. We have heard the rival contentions, and perused the materials available on record. The Ld. CIT(A) has decided the appeal ex-parte without examining the cash book, in which sufficient balance as on 08.11.2016 has been shown. The Ld. AR has argued that sufficient opportunity was not given to submit the evidences to prove his case. After considering the facts of the case, we are of the opinion that the assessee should be given one more opportunity to submit evidence before the Ld CIT(A). Accordingly, the order of Ld. CIT(A) is set aside and the matter is remanded back to the file of CIT(A) for fresh adjudication.

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

*Order pronounced in the open Court on 22<sup>nd</sup> May, 2024.*

**Sd/-**  
(यस यस विश्वनेत्र रवि)  
(SS Viswanethra Ravi)

**न्यायिक सदस्य / Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 22<sup>nd</sup> May, 2024.

EDN/-

**Sd/-**  
(जगदीश)  
(Jagadish)

**लेखा सदस्य / Accountant Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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