

IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH MUMBAI

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.629/MUM/2024
(Assessment Year :2017-18)**

Ahamed Ishaq Mulla 101, A-wing Park Plaza, New Yari Road Versova, Andheri (W), Mumbai – 400061	Vs.	Income Tax Officer, Ward 24(1)(1), Room No. 702, 7 th Floor, Piramal Chamber, Lalbaug, Parel, Mumbai - 400012
PAN/GIR No.AAMP6573E		
(Appellant)	..	(Respondent)

Assessee by	Shri Tanzil Padvekar
Revenue by	Smt. Kakoli Uttam Ghosh
Date of Hearing	24/06/2024
Date of Pronouncement	28/06/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 29/12/2023 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) for A.Y.2017-18.

2. The NFAC has dismissed the assessee's appeal firstly has passed the *ex parte* order confirming the addition made by the ld. AO on account of cash deposits of Rs.17,12,000/- u/s.69A.

3. The brief facts are that assessee has filed his return of income for A.Y.2017-18 on 05/08/2017 declaring total income of Rs.3,36,290/-. The assessee has declared income mainly interest received from the bank. The ld. AO noted that the assessee did not respond to various notices sent u/s.142(1) and finally he has passed assessment u/s.144 by adding the cash deposits of Rs.17,12,000/- deposited in its bank account. The details of cash deposits in SB Accounts with DCB bank and ICICI bank during the demonetization period had been given at pages 4 & 5 of the assessment order. The ld. CIT(A) too has confirmed the said addition on the ground that assessee did not file any reply before the ld. AO and also before the ld. CIT(A).

4. Before us, ld. Counsel submitted that assessee is now 95 years old and when the assessment proceeding had commenced, he was 90 years old and was not aware of any notices sent on e-mail, because he did not had anyone to check his email, nor had any professional to guide him and he was not habitual of using e-mail ID. His mental fitness is not very sound due to his advanced old age of more than 90 years. He submitted that assessee was earlier Merchant Navy Captain from 1955-1990 and after his retirement in the year1990 he has been living on his past saving, interest and mostly money provided by his two sons from time to time. Assessee has no source of income apart from interest. His elder son is working in Dubai and younger son is a Merchant Navy Officer who had been supporting their parents in all these years. Assessee is living alone in India with his wife who is also more than 83 years old and they do not

know to how to operate bank account as there is no one to assist them and looking to their old age and various illness, assessee had been keeping cash which has been provided from time to time by his children and withdrawals made from the bank account to meet the medical emergencies and household expenses. When the demonetization was announced, assessee had made the deposits in the bank account. Thus, when assessee does not have any source of income, then treating the entire cash deposit as 'unexplained money of the assessee is unwarranted under the facts and circumstances of the case.

4. On the other hand, ld. DR strongly relied upon the order of the ld. AO and ld. CIT(A) and submitted that assessee has not given any explanation for the source of money nor he attended before the ld. AO and ld. CIT(A).

5. We have heard rival submissions and perused the relevant finding given in the impugned orders as well as material placed before us. On the perusal of the records, it is seen that assessee has been filing his return of income which mostly consists of minor interest income received from bank. He has no other source of income. As informed by the ld. Counsel assessee could not give reply in response to various notices because all the invoices were sent to ITBA portal and e-mail and since assessee does not have any regular Chartered Accountant and was filing return of income through the help of tax return preparer (TRP) who are provided by the Income Tax department for assistance of such citizens. Assessee at the time of assessment proceedings was more than 90 years old who was not well versed with e-mail

or looking to the ITBA portal and never came to know about the notices being sent to the Income Tax department. Therefore, no reply could be filed. Looking to the fact that assessee retired as a Captain Merchant Navy in the year 1990 and is almost 95 years old, such a non-compliance of notice sent through e-mode can be said to be bonafide. The assessee is being looked after by his two sons who were working abroad and had been helping their parents by giving them money for their day to day life and for their medical emergencies. Since, they are of very advanced age and cannot do regular banking, therefore, they were keeping cash for their medical emergencies and daily household expenses. If assessee did not have any source of income, then explanation of the assessee that the money which was available with the assessee was contribution made by his two children seems to be a plausible explanation and under these facts and circumstances and looking to such an advanced age of assessee and his wife, it cannot be held that these are unaccounted money. It has been stated that since both husband and wife could not operate bank account looking to their immobility they needed to have cash for their daily expenses and for their hospital bills and other medical contingencies. Thus, depositing all the money they had over the period of time which was set aside for emergencies and provided by his children and deposited in the bank account during demonetization cannot be held to be unexplained. Accordingly, the addition made by the ld. AO is deleted.

6. In the result, appeal of the assessee is allowed.

Order pronounced on 28th Jun, 2024.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Mumbai; Dated 28/06/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai