

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.992/Bang/2024
Assessment Year: 2017-18

Smt. Kortikere Srinivasa Iyengar Amruthavally 160, Srinivasa Nilaya Behind Police Quarters Iyengar Extension Holalkere 577 526 Chitradurga Dist. PAN NO : AVCPA3981D	Vs.	ITO Ward-1 Chitradurga
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sunaina Bhatia, A.R.
Respondent by	:	Sri Tamil Selven S., D.R.

Date of Hearing	:	01.07.2024
Date of Pronouncement	:	01.07.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2017-18 dated 2.2.2024. The assessee raised following grounds:

- 1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*
- 2. The learned CIT[A] is not justified in sustaining the addition of Rs. 10,57,000/- out of the original addition of Rs. 87,78605/- made as unexplained money U/s 69A rws 115BBE of the Act under the facts and in the circumstances of the appellant's case.*
- 3. The learned CIT[A] ought not to have upheld the rejection of the bonafide explanation tendered by the appellant for the source of the cash deposits made from out of the agricultural income of the*

appellant's husband under the facts and in the circumstances of the appellant's case.

4. *The learned CIT[A] is not justified in upholding the tax imposed under the provisions of section 115BBE under the facts and in the circumstances of the appellant's case.*
 5. *Without prejudice to the above, the learned CIT [A] is not justified in passing the order without providing sufficient opportunity to the appellant to be heard under the facts and in the circumstances of the appellant's case.*
 6. *Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies herself liable to be charged to interest u/s.234-A, 234-B and 234-C of the Act, which under the facts and in the circumstances of the appellant's case and the levy deserves to be cancelled.*
 7. *The learned CIT[A] is not justified in disposing off the appeal ex-parte without allowing sufficient and real opportunity to the appellant to represent the case and hence, the impugned order passed requires to be cancelled.*
 8. *For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.*
- 2.** Facts of the case are that the Id. AO made addition of Rs.87,78,605/- with regard to cash deposit to assessee's bank account. On appeal, assessee produced additional evidence in the shape of bank certificate to show that a sum of Rs.78,25,605/- was wrongly reported by the panel and RTC for explaining the source of actual cash deposit made by assessee during the assessment year. Thereafter, NFAC called for the remand report from Id. AO and deleted addition of Rs.77,21,605/- and sustained only addition of Rs.10,57,000/-. Against this assessee once again in appeal before us.
- 3.** Before us, Id. A.R. filed additional evidence along with petition for admission of additional evidence stating that assessee's husband who owned Rs.22 lakhs of agricultural land, which are managed by

the assessee, out of which 15 acres were utilized for arecanut cultivation. The assessee also furnished a copy of RTC in vernacular language in support of the same. The said claim of the assessee was not accepted by the lower authorities on the ground that assessee has not furnished reply to letter dated 21.9.2023 of the ld. AO for calling for further details. In this regard, it was submitted that the assessee was prevented by reasonable cause for responding the above letter issued by the ld. AO as well as by the ld. CIT(A)/NFAC for filing the rejoinder/by submissions which are not deliberate, willful or intentional. Thus, it is submitted that explanation of the assessee ought to have been accepted considering the quantum of cash deposit and expenditure of agricultural land held by the assessee's husband. She submitted that in the light of RTC filed by the assessee supporting the land holding by assessee's husband to the extent of 22 acres of land, wherein the arecanut cultivation was made. The addition to be deleted.

4. On the other hand, the ld. D.R. strongly supported the order of lower authorities stating that these additional evidences shall not be admitted.

5. We have heard the rival submissions and perused the materials available on record. In our opinion, assessee failed to reply to the lower authority's letter dated 21.9.2023 which was neither wanton nor intentional. Accordingly, in our opinion, the explanation given by the assessee is bona fide for not furnishing relevant evidences of holding the land of assessee's husband. Accordingly, the additional evidence is admitted. After admission of additional evidence, in our opinion these additional documents are required to be examined at the end of ld. AO. Accordingly, we direct the assessee to produce additional evidences produced before us in the form of RTC of agricultural land owned by assessee's husband before ld. AO and prove that the assessee's husband has given this amount to the assessee so as to deposit to assessee's bank account. If it is proved

to the satisfaction of the ld. AO, the additional to be deleted. With this observation, we remit the entire issue in dispute to the file of ld. AO for fresh consideration.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 1st July, 2024

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 1st July, 2024.
VG/SPS

Copy to:

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

By order

Asst. Registrar,
ITAT, Bangalore.