

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

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

ITA No. 686/Bang/2024
Assessment Year : 2017-18

Shri Varadaraj Sharavana, D No. 1811, F Block, Kanakadasanagara, Datagalli 3 rd Stage, Mysore – 570 022. PAN: AEWPV2830A	Vs.	The Income Tax Officer, Ward – 1(4), Mysore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Tharun Kothari, CA
Revenue by	:	Shri Ganesh R. Ghale, Standing Counsel for Department

Date of Hearing	:	10-06-2024
Date of Pronouncement	:	24-06-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 22.02.2024 passed by NFAC, Delhi for A.Y. 2017-18.

2. At the outset, it is submitted that, only issue raised by assessee in the present appeal is regarding addition made by the Ld.AO u/s. 69A of the act on the demonetized cash deposited in the bank account. It is noted that, before the Ld.AO, the assessee could not appear and ex-parte order was passed. In an appeal before the Ld.CIT(A), assessee again could not appear though the notices were issued to the assessee.

3. On a query being raised by this *Tribunal* regarding non-appearance before Ld.CIT(A), an affidavit dated 08.06.2024 was relied by the Ld.AR, stating that the assessee is a mason by profession and do not have sufficient knowledge to access the email id as per form 35. It was submitted that the id was created by a tax practitioner, for purpose of registering the assessee's profile with the income tax department. It was submitted by the Ld.AR that, being illiterate, the fate followed by the shortcoming, the assessee was not able to appear before the authorities below. He thus prayed for the appeal to be remanded for deciding the issue on merits.

The Ld.DR relied on the orders passed by authorities below.

We have perused the submissions advanced by both sides in the light of records placed before us.

4. Admittedly, necessary verification in respect of the cash deposits made during the demonetisation period has not been verified by the authorities below. Undoubtedly, the CBDT Circular to understand the cash deposited during the

demonetisation period has to be considered before making addition in the hands of the assessee under sec. 69A of the Act.

5. The assessee is directed to furnish all relevant evidences establishing the income earned during the relevant year, and the source of cash deposited into the bank accounts during the demonetisation period. The Ld.AO is directed to verify all the details having regards to the evidences furnished by the assessee in the light of the following CBDT Circular/ instructions.

- a) The 1st instruction was issued on 21/02/2017 by instruction number 03/2017.
- b) The 2nd instruction was issued on 03/03/2017 instruction number 4/2017.
- c) The 3rd instruction was in the form of a circular dated 15/11/2017 in F.No. 225/363/2017-ITA.II and the last one dated 09/08/2019 in F.no.225/145/2019-ITA.II.

6. The assessee is directed to establish all relevant details to substantiate its claim in line with the above applicable instructions, to the facts in present case. We are aware of the fact that not every deposit during the demonetisation period would fall under category of unaccounted cash. However the burden is on the assessee to establish the genuineness of the deposit in order to fall outside the scope of unaccounted cash.

The Ld.AO shall verify all the details / evidences filed by the assessee based on the above direction and to consider the claim in accordance with law.

Needless to say that proper opportunity of being heard must be granted to the assessee. The assessee may be granted physical hearing in order to justify its claim.

Accordingly, the grounds raised by the assessee stands allowed for statistical purposes.

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

Order pronounced in the open court on 24th June, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 24th June, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore