

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.654/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Ms.Binu Christeena, No.3/421, Door No.D4, Southern Rivera Pandian Salai, Neelankarai, Chennai-600 041.	v.	The Income Tax Officer, Non-Corporate Ward-15(1), Chennai.
[PAN: AOKPC 8768 B]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Ms.S.Vishnu Priya, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.P.Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	20.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	05.07.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, dated 16.01.2024 for the Assessment Year (hereinafter in short 'AY') 2017-18.

2. The brief facts of the case are that the assessee is engaged in the business of real estate and contractor and runs the proprietorship concern in the name and style of M/s.Dream Assets Promoters ; and the assessee



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is found to have admitted total turnover during the period under consideration to the tune of Rs.83,85,714/- and out of which, the cash sales were declared at Rs.9,90,000/- and same was offered to tax under the provision of Section 44AD of the Income Tax Act, 1961 (hereinafter in short 'the Act') and had filed her Return of Income (hereinafter in short "ROI") for Assessment Year (AY) 2017-18 on 13.12.2017 admitting income of Rs.6,04,786/-. Later on, the case of the assessee was selected for complete scrutiny for AY 2017-18, and the assessee was asked to furnish certain details as well as reconciliation of Form 26AS with the income offered in RoI and also the source of cash deposits of Rs.31 lakhs during demonetization period; and pursuant to which, assessee replied to the notice of AO; but not satisfied, AO made *inter alia* addition of Rs.31 lakhs, which was partially confirmed by the Ld.CIT(A) and directed the AO to only add cash deposit in bank a/c No.91602004068440 with Axis Bank (*current-account*) in excess of Rs.9,90,000/- u/s.69A of the Act. Aggrieved, the assessee is before us against the action of the Ld.CIT(A) confirming the balance of addition u/s.69A of the Act.

3. According to assessee, she filed detailed written submissions before the Ld.CIT(A) on 18.12.2023 which has not been considered properly by the Ld.CIT(A). In this regard, the assessee urged that she had explained *inter-alia* about the source of Rs.12 lakhs which was advance given to her



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by Shri Shibu Jacob & Mrs.Simi Thomas, for construction of property at Neelagiri Village and that project could not fructify, because, there was a dispute about the 'title' of the property which ultimately was compromised at the level of the Hon'ble Madras High Court and referred to compromise deed dated 31.10.2022; According to the assessee, the Ld.CIT(A) has not considered the explanation regarding source of Rs.12 lakhs which is supported by contemporary evidence. Therefore, the Ld.AR prayed that one more opportunity may be granted to the assessee for proving the source of cash deposits in her bank accounts, which has been confirmed by Ld CIT(A). The Ld.DR opposes the request of the assessee for one more innings.

4. We note that assessee vide submission dated 18.12.2023 brought to the notice of the Ld.CIT(A) that she is engaged in the business of real estates and contractor; and that during the relevant year, she had turnover of Rs.83,85,714/- and out of which, cash sales were to the tune of Rs.9,90,000/- (*which fact has been accepted by the Ld.CIT(A)*); and the Ld CIT(A) has given part relief to the assessee by adjusting Rs.9,90,000/- in the current account of Axis Bank as explained. However, the main grievance of assessee is that the Ld.CIT(A) has not considered the facts that assessee has withdrawn/given cash-cheque in the name of her husband, which money he has drawn has been was safely kept by him



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for emergency use in their business. However, due to demonetization being declared, the assessee had to deposit the same back in the bank account. According to the assessee, she was able to prove the source of the amount deposited in the Axis Bank with bank a/c No. ending in 4440 [which is the current account of the assessee, wherein the Ld.CIT(A) has accepted Rs.9,90,000/- (*out of total Rs 19 lakhs*)from business income]; and balance of Rs.12 lakhs cash deposited in account ending with 1732 in Axis Bank, the assessee had stated in the written submissions as well as before the AO that she being a contractor/real estate developer had received Rs 12 Lakhs in cash from her clients, Mr.Shibu Jacob & Ms.Simi Thomas to construct a property at Neelagiri Village, which she deposited in her bank account during demonetization period. [*According to the assessee, there was a certain dispute about the title of the property which finally got settled as per the terms of can enter into Compromise Deed after intervention of the Hon'ble Madras High Court dated 09.08.2019; and as per Compromise Deed dated 31.10.2022, land owner of Neelagiri Village, Shri Pradeep & Others had to return an amount of Rs.2.38 Crs. to Mr.Shibu Jacob & Ms.Simi Thomas, which amount included the advance paid to the assessee to the tune of Rs.12 lakhs;*] According to the assessee, even though, these facts were brought to the notice of the Ld.CIT(A); he has not bothered to look at the contemporary evidences filed by the assessee which omission vitiates the finding of the Ld.CIT(A)



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for non-consideration of the relevant documents. We find force in the submission of the Ld.AR, that Ld CIT(A) has not considered the explanation/contemporary evidences filed by assessee for proving the source of cash deposits in both bank-accounts. Therefore, we set aside the impugned order of the Ld.CIT(A) and restore the appeal back to the file of the Ld.CIT(A) to consider the explanation/written-submission/contemporary documents/relevant documents filed by the assessee to show the source of the cash deposited of the assessee regarding the balance cash of Rs.9,10,000/- (Rs.19,00,000/- minus Rs.9,90,000/-) in current account/bank account number ending with 4440 in Axis Bank; and Rs.12 lakhs in bank account number ending with 1732 in Axis Bank, and pass order in accordance to law.

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

Order pronounced on the 05th day of July, 2024, in Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 05th July, 2024.

TLN, Sr.PS

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**



ITA No.654/Chny/2024 (AY 2017-18)
Ms.Binu Christeena

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF