

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.673/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Muthusamy Senthilkumar, 142G2 Opp. V.S.Mani Petrol Bunk, Salem Road, Namakkal-637 001.	v.	The Income Tax Officer, Ward-1, Namakkal.
[PAN: BAEPS 3189 M]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri T.S.Lakshmi – Venkatraman, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.05.2024
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 27.09.2023 for the Assessment Year (hereinafter in short 'AY') 2017-18.

2. At the outset, it is noticed that there is a delay of '109' days in filing of this appeal; and the assessee has filed an Affidavit, requesting to condone the delay, citing the cause of the delay, which we note that he came to know about the impugned order only in the first week of March,



:: 2 ::

2024; and immediately, he contacted her AR and got the appeal prepared and filed the appeal in ITAT on 14.03.2024. After perusal of the contents of the Affidavit, we find that delay caused in filing the appeal cannot be termed as deliberate/negligent. And no assessee derives any benefit by not filing the appeal. Therefore, for the ends of justice and fair play, we condone the delay and proceed to hear the appeal on merits.

3. The main grievance of the assessee is against action of the Ld.CIT(A) confirming the action of the AO making an addition of Rs.23,08,000/- as unexplained money u/s.69A r.w.s.115BBE of the Income Tax Act, 1961 (hereinafter in short "the Act"), despite assessee had brought to their notice that as on 08.11.2016 (i.e. before the demonetization was ordered) he had cash balance of Rs.46,53,764/-.

4. Brief facts are that the assessee had filed his return of income on 23.01.2018 admitting an income of Rs.8,38,730/-. Later, the return of income was selected for scrutiny. The AO noted in the assessment order that assessee is an individual engaged in the business of trading in poultry feeds in the name and style of a proprietorship concern, M/s.Harrin Feeds, and he noted that assessee had made huge cash deposits amounting to Rs.1,89,13,500/-, which includes a sum of Rs.57,08,000/- in demonetized currency [Specified Bank Notes (hereinafter in short "SBNs")] meaning remaining cash deposits of



:: 3 ::

Rs.1,34,25,500/- was deposited in non-SBNs. The AO after calling for various details in respect of the deposit of SBNs to the tune of Rs.57,08,000/- found that cash in hand as on 08.11.2016 of the assessee was at Rs.46,53,764/- and thereafter, the AO has given in chart format, the deposits made in Co-operative Bank from 11.11.2016 to 15.11.2016 and the breakup of number of Rs.100/- & Rs.500/- notes and the total amount; and thereafter, AO found that the assessee was having cash on hand as on 08.11.2016 to the tune of Rs.46,53,764/-. And that assessee has made deposits of cash in his bank account from 11.11.2016 to 28.12.2016. According to the AO, considering the nature of business (trading in poultry feeds), cash deposits made by the assessee during the period from 11.11.2016 to 15.11.2016, was reasonable and hence, allowed it; and the remaining balance of Rs.23,08,000/-, according to the AO, cannot be considered as reasonable, since it was deposited beyond reasonable time and treated the same as unexplained money u/s.69A r.w.s.115BBE of the Act.

5. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A), who was pleased to confirm the same by reiterating the findings of the AO. Aggrieved by the action of the Ld.CIT(A), the assessee is before us.

6. Per contra, the Ld.DR does not want us to interfere with the action of the Ld.CIT(A).



:: 4 ::

7. We have heard both the parties and perused the material available on record. The assessee had deposited a huge sum of cash during demonetization period between 09.11.2016 to 30.12.2016 and the AO accepted the genuineness of Rs.34 lakhs, but didn't accept the genuineness of Rs.23,08,000/-, so assessee is in appeal before us. In this regard it is noted that the assessee is in the business of trading in poultry feeds and deals with persons engaged in poultry farms and sell poultry feeds in rural areas mostly in cash. And the assessee in order to show the source of the cash deposited in Bank had given the details of stock of poultry feeds as well as the cash received and the cash on hand as on 08.11.2016 (before demonetization date) which has not been deposited. The assessee had shown cash on hand as on 08.11.2016 at Rs.46,53,764/- and the AO has accepted the genuineness and source of Rs.34 lakhs (Rs.57,08,000/- – Rs.23,08,000/-) because assessee had deposited 'SBNs' between 11th November to 15th November, 2016; and has not accepted SBNs deposits of Rs.23,08,000/-, even though, there was enough cash on hand, only on the reason that assessee had deposited the same after 18.11.2016 to 28.12.2016. The reason given by both the authorities below cannot be countenanced for the reason that AO accepted the reasonableness as to the part must be good for the whole, because there was no material on which it could be held that the balance constituted income from some undisclosed source to distinguish the case



ITA No.673/Chny/2024 (AY 2017-18)
Muthusamy Senthilkumar

:: 5 ::

about the part rejected from the part accepted; and the delay in deposit was explained by assessee was due to huge rush in bank [to exchange SBNs] and in this regard, we note that there was huge rush in the bank for deposit of the SBNs and the assessee has explained that he could manage to deposit cash in lots on various dates, which we accept; and since assessee had enough cash on hand as on 08.11.2016, which was deposited in bank, we are inclined to delete the addition of Rs.23,08,000/-.

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

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

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 05th July, 2024.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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