

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.658 & 659/Bang/2024
Assessment Years : 2013-14 & 2014-15

Ryatar Sahakari Sakkare Karkhane Niyamit, 1, Ranna Nagar, Timmapur, Bagalkot – 587122. PAN – AAAAR 0428 E	Vs.	The Income Tax Officer, Ward – 1 &TPS, Vijayapura. The NFAC, Delhi.
APPELLANT		RESPONDENT

Assessee by	:	Shri Chaithanya V, Advocate
Revenue by	:	Ms. Matta Padma, Addl. CIT (DR)

Date of hearing	:	04.06.2024
Date of Pronouncement	:	22.07.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

These appeals filed by the assessee are against the order passed by the NFAC, Delhi dated 26/02/2024 in DIN Nos. ITBA/NFAC/S/250/2023-24/1061494015(1) for the assessment year 2013-14 and ITBA/NFAC/S/250/2023-24/1060559491(1) vide dated 06/02/2024 for the assessment year 2014-15.

Coming to ITA No. 658/Bang/2024 for the Assessment Year 2013-14

2. The only issue raised by the assessee is that the Id. CIT(A) erred in confirming the order of the AO by substantiating the addition of Rs. 53,69,640/- under the provisions of 69A of the Act representing the cash deposits in the bank.

3. In the present case, the assessee failed to justify the deposit of cash amounting to Rs. 53,69,640/- based on the documentary evidence. Therefore, the AO treated the same as unexplained money u/s 69A of the Act and added to the total income of the assessee.

4. On appeal, the Id. CIT(A) issued various notices to the assessee to justify the source of cash deposit in the bank but there was no compliance. Accordingly, the Id. CIT(A) upheld the finding of the AO.

5. Being aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

6. The Id. AR before us submitted that there were deposits of cheques in the bank account but authorities below on wrong assumption of facts have treated the same as cash deposit. As per the Id. AR, this fact was very much communicated to the Id. CIT(A) through the statement of facts. However, the CIT(A) without taking the note of the cheque deposits has upheld the order of the AO.

7. Further, the Id. AR before us submitted that in the interest of justice and fair play matter, may be set aside to the file of the AO for denovo adjudication as per the provisions of law.

8. The Id. DR vehemently supported the orders of the authorities below.

9. We have heard the rival contentions of both the parties and perused the materials available on record. From the aforesaid discussion, we note that there is a mismatch in the facts as stated by the assessee before the authorities below vis-à-vis the facts as observed by the AO/Id. CIT(A) in their respective orders. According to the Revenue, there were cash deposits whereas as per the assessee, there were cheques deposits. Therefore, in the interest of justice and fair play, we are of the view that the necessary facts need to be verified at the level of the AO. It is not out of place to mention that the assessee shall co-operate during the proceedings before the AO and shall not seek any adjournment without just cause. With these observations, we set aside the issue to the file of the AO for fresh adjudication as per the provisions of law. Hence, the ground of appeal of the assessee is hereby allowed for statistical purposes.

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

Coming to ITA No. 659/Bang/2024 for the Assessment Year 2014-15

11. The facts of the case on hand are identical to the facts of the case discussed above, therefore, respectfully following the same, we set aside

the issue to the file of the AO for fresh adjudication as per the provisions of law. Hence, the ground of appeal of the assessee is hereby allowed for statistical purposes.

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

13. In the combined result, both the appeals filed by the assessee are hereby allowed for statistical purposes.

Order pronounced in court on 22nd day of July, 2024

Sd/-

(GEORGE GEORGE K)
Vice President

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore,
Dated, 22nd July, 2024
/ vms /

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore