

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA No.: 596/Chny/2024

निर्धारणवर्ष / Assessment Year: 2017-18

Kavitha,  
Flat No. 7, Salmas Trust Castle, v.  
4 Puliyur 1<sup>st</sup> Street Main Road,  
Trustpuram, Kodambakkam,  
Chennai – 600 024.

Deputy Commissioner of Income  
Tax,  
Non Corporate Circle 19(1),  
Chennai.

**[PAN: AFSPR-2701-J]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by : Shri. N. Arjunraj, Advocate

प्रत्यर्थीकीओरसे/Respondent by : Shri. R. Vikneswaran, JCIT

सुनवाई की तारीख/Date of Hearing : 05.06.2024

घोषणा की तारीख/Date of Pronouncement : 24.07.2024

**आदेश / ORDER**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal instituted by the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 12.01.2024.

2. The only issue in the grounds of appeal raised by the assessee is the NFAC, Delhi erred in sustaining the addition of Rs.1,96,39,291/- being the cash deposits presumed to have

been made in SBNs during demonetization period as unexplained cash credit in erroneously invoking Section 68 in the computation of taxable total income without assigning proper reasons and justification.

3. Brief facts of the case: The assessee is an individual and proprietrix of M/s. Amsvee Enterprises, deriving income from the retail outlet of BPCL by selling Motor spirit/HSD, Motor oils, Grease and other accessories. The assessee filed her return of Income on 06.11.2017 by declaring an Income of Rs.54,40,270/- for the A.Y.2017-18. The case was selected for scrutiny and the assessment was concluded by the AO and passed an order U/s.143(3) of the Act on 16/12/2019 by making an addition of cash deposits made to bank account as unexplained money U/s.68 of Rs.1,96,39,291/-. Aggrieved by the order of the AO, assessee preferred an appeal before the Id.CIT(A) pleading that impugned additions are made without providing proper opportunity.

4. The Id.CIT(A), NFAC, confirmed the order of the AO by passing an exparte order on 12.01.2024, since the assessee

had not participated in the appellate proceedings. Aggrieved by the order of the Id.CIT(A), the assessee is before us.

5. The Id.AR stated that the Id.CIT(A) has erred in dismissing the assessee's appeal without appreciating the fact that, the AO had not given proper opportunity to the assessee for providing the entire details of cash deposits to prove the genuineness of the source of the funds and passed the Assessment order on 16/12/2019 by giving only 10 day's time for replying show cause notice dated 06/12/2019. Further, the Id.AR assailed that the lower authorities had erred in arriving the cash deposits made during the demonetization period as unexplained money to tax under Section 68 of the Act, without considering the certificate issued by the banker for having deposited SBNs upto 03/12/2016. The Ld.AR brought to our notice that, the retail outlets of petrol pumps were allowed to accept the SBNs upto 02/12/2016 and hence the deposits of SBNs made out of the trade receipts to its bank account by the assessee upto 03/02/2016 ought not to have treated as unexplained money of the assessee by the AO. The Ld. AR sought an opportunity to furnish entire details of source of cash

deposited before the AO and prayed for remanding the matter back to the AO.

6. The Id.DR asserting the action of the lower authorities, stated that both the Ld.CIT(A) and AO has given sufficient opportunity and the assessee failed to prove the source of the cash deposited and hence prayed for upholding the order of the Ld.CIT(A).

7. We have heard both the parties and gone through the orders of the lower authorities. It is noted that the assessee is having a retail outlet of BPCL, selling Motor spirit/HSD, Motor oils, Grease and other accessories. According to Id.AR the assessee has deposited cash to the bank account of the assessee in SBNs only upto 03/12/2016, and obtained the certificate from their banker and furnished before the Ld.CIT(A) during the appellate proceedings. The Id.AR stated that the certified statement of cash deposited during the period of demonetization (date wise) has been obtained from the bank for showing the denomination of cash deposits in SBNs and other currencies, which shows that the SBNs are deposited only upto 03/12/2016, the same has not been considered by the

lower authorities. According to Ld. AR, the assessee was permitted to collect the trade receipts from its business in SBNs also upto 02/12/2016 as per the Notification.S.O.3408 (E) dated 08<sup>th</sup> Nov. 2016, the central Government declared that the specified bank notes shall not cease to be legal tender, with effect from 09/11/2016 until 03/12/2016 (vide Notification.O.3598 (E) dated 30/11/2016 w.e.f 03/12/2016), to the extent of transaction specified which included inter alia;

- (e) For purchase of petrol, diesel and gas at the station operating under the authorisation of public sector oil marketing companies,

and therefore, he assailed the action of the AO and Id.CIT(A) being erroneous and resultant addition of the trade receipt deposited in bank account as unexplained money U/s.68 was bad in law and deserves to be deleted and hence prayed for setting aside the impugned order. We find force in the arguments of the Ld. AR as discussed (Supra) and we note the AO/CIT(A) erred in not considering the Bank's certified statement of cash deposits made by the assessee during the demonetization period, and hence we set aside the impugned order of the Id.CIT(A) and in the facts and circumstances of the

case, we are inclined to remit back the issue to the file of the AO for denovo examination of bank statements and certificate issued thereon. We direct the AO to provide reasonable opportunity to the assessee and the assessee is at liberty to furnish the written submissions along with relevant details and the AO to decide the issue afresh in accordance with law. Accordingly, the impugned orders of the lower authorities are set aside and the issue is restored back to the file of AO for fresh examination of the issue.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 24<sup>th</sup> July, 2024 at Chennai.

**Sd/-**

(एबी टी वर्की)

**(ABY T VARKEY)**

न्यायिक सदस्य/**Judicial Member**

**Sd/-**

(एस.आर.रघुनाथा)

**(S. R. RAGHUNATHA)**

लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 24<sup>th</sup> July, 2024

**JPV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF