

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

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

ITA No.1083/Bang/2024
Assessment year : 2017-18

Makam Prasanna, NRC Building, M.G. Road, Chintamani – 563 125. <b>PAN : AKBPP 5055D</b>	Vs.	The Income Tax Officer, Ward 1, Chikaballapur.
APPELLANT		RESPONDENT

Appellant by	:	Shri Tharun Kothari, CA
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	23.07.2024
Date of Pronouncement	:	31.07.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the order dated 31.3.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 on the following ground:-

“ On the facts and circumstances of the case and in law, the addition of Rs.12,73,500/- made by the AO and the same has been confirmed by the CIT(A), in respect of cash deposits in the Bank accounts, as unexplained investments u/s. 69A of the Act, is not sustainable and liable to be deleted.”

2. Briefly stated the facts of the case are that assessee filed return of income on 31.03.2018. The case was selected for complete scrutiny

and statutory notices issued to the assessee, but there was no response from the assessee's side. From the information it was noticed that assessee has deposited cash into her bank account during the demonetization period of Rs. 12,73,500/-. The AO called for information from the Bank after issuing notice u/s. 133(6) of the Act. The assessee also furnished certain details. The assessee had shown gross receipts of Rs.37,75,990 and 11.37% profit was shown by the assessee on its. From the bank statements assessee deposited cash as under:-

- i. Axis Bank, Chintamani Br. A/c. No.869759282 - Rs.33,33,239.
- ii. Karur Vysya Bank, Chintamani Br. A/c. No.1351135000001905 – Rs.59,43,357.

3. From the above bank statement it was noticed that the assessee had shown less gross profit in its income tax return, accordingly the AO calculated the net profit @ 11.37% of Rs.92,76,596 which is total cash deposit into above two bank accounts. Accordingly net profit was calculated at Rs.10,54,749. Since there was no specific explanation to the satisfaction of the AO regarding cash deposits during the demonetisation period, therefore entire cash deposits were added u/s. 69A of the Act and applied tax rate u/s. 115BBE of the Act.

4. Aggrieved from the above order, the assessee filed appeal before the CIT(Appeals) and the CIT(Appeals) after considering the submissions of the assessee dismissed the appeal of the assessee. Against the order of the CIT(Appeals), the assessee is in appeal before the ITAT.

5. The Id. AR reiterated submissions made before the lower authorities and submitted that assessee introduced initial capital by taking loan from Mannapuram Gold Finance by mortgage of her personal jewellery. She is also taking tuition and earned some money she was also taking dance classes and saved some money. She also deposited money out of her pin pocket money and took financial assistance from near and dear ones for which there is no proof with any documentary evidence. She is also running a jewellery shop. The Id. AR further submitted that the amount was taken as advance from customers as under:-

Name	PAN	Date		Amount Rs.
Mr. Girisha S G	ATPPG 2687P	14.11.2016	1,90,000	
		15.11.2016	33,500	2,23,500
Mr. Eeranna	DFLPM 2589M	11.11.2016	1,85,000	
		13.11.2016	1,93,000	3,78,000
Mr. Venkatareddy K	AJQPV 5000J	10.11.2016	1,98,000	
		12.11.2016	1,80,000	
		13.11.2016	1,93,000	5,71,000
Mr. Narayana Swamy C	BCPPN 3228P	14.12.2016	50,000	
		18.12.2016	51,000	1,01,000

Accordingly he submitted that the entire cash deposit is explained and it should not be considered u/s. 69A of the Act.

6. The Id. DR relied on the order of lower authorities and submitted that during the course of assessment proceedings, the assessee was unable to submit any documentary evidence in support of source of cash received and deposited in her bank account. Even before the CIT(A) assessee was unable to submit any proof. He also submitted

that the Govt has issued various Notification/Board Instructions regarding examination of cash deposits during the demonetisation period. The assessee is also unable to produce the purchase bills, sale bills, stock register, etc., therefore the order of the lower authorities should be upheld.

7. Considering the rival submissions, we note that the dispute is only regarding cash deposits of Rs.12,73,500 during the demonetisation period and the Id. AR of the assessee tried to justify the cash deposits by explaining the source, but there is no documentary evidence submitted. We note that CBDT had issued guidelines/instructions specially for examination of cash deposits during the demonetisation period and it has been considered in the judgment of coordinate Bench of the ITAT in the case of Bhooplam Marketing Services P. Ltd. vs ACIT in ITA No. 375 & 564/Bang/ 2022 order dated 15.09.2022 in which it has been held as under:-

*7.1 We have carefully gone through the various standard operating procedures laid down by the central board of direct taxes issued from time to time in case of operation clean. The 1st of such instruction was issued on 21/02/2017 by instruction number 03/2017. The 2nd instruction was issued on 03/03/2017 instruction number 4/2017. 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. These instructions gives a hint regarding what kind of investigation, enquiry, evidences that the assessing officer is required to take into consideration for the purpose of assessing such cases.*

*8. In 1 of such instructions dated 09/08/2019 speaks about the comparative analysis of cash deposits, cash sales, month wise cash sales and cash deposits. It also provides that whether in such cases the books of accounts have been rejected or not where substantial evidences of vide variation be found between these statistical analyses.*

*Therefore, it is very important to note that whether the case of the assessee falls into statistical analysis, which suggests that there is a booking of sales, which is non-existent and thereby unaccounted money of the assessee in old currency notes (SBN) have been pumped into as unaccounted money.*

*8.1 The instruction dated 21/02/2017 that the assessing officer basic relevant information e.g. monthly sales summary, relevant stock register entries and bank statement to identify cases with preliminary suspicion of back dating of cash and is or fictitious sales. The instruction is also suggested some indicators for suspicion of back dating of cash else or fictitious sales where there is an abnormal jump in the cases during the period November to December 2016 as compared to earlier year. It also suggests that, abnormal jump in percentage of cash trails to on identifiable persons as compared to earlier histories will also give some indication for suspicion. Non-availability of stock or attempts to inflate stock by introducing fictitious purchases is also some indication for suspicion of fictitious sales. Transfer of deposit of cash to another account or entity, which is not in line with the earlier history. Therefore, it is important to examine whether the case of the assessee falls into any of the above parameters are not.*

*8.2 The assessee is directed to establish all relevant details to substantiate its claim in line with the above applicable instructions. 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.*

8. Respectfully following the above judgment, we also remit this issue back to the CIT(Appeals) for fresh consideration in the light of the above judgment to the extent of applicability.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 31<sup>st</sup> day of July, 2024.

Sd/-

( BEENA PILLAI )  
JUDICIAL MEMBER

Sd/-

(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 31<sup>st</sup> July, 2024.

*/Desai S Murthy/*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.