

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES “A”, BANGALORE**

**Before Shri Chandra Poojari, Accountant Member  
&  
Shri Keshav Dubey, Judicial Member**

ITA No.808/Bang/2024: Asst.Year : 2017-2018

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| Sri.Gurupadaling Viraktamath<br>C/o.V.Sudhindranath<br>No.51/7/1, Chitrakoot, Ratna<br>Avenue, Richmond Road<br>Bangalore – 560 025.<br><b>PAN: BJWPG1896A.</b> | vs. | The Income Tax Officer<br>Ward 1<br>Gulbarga. |
| (Appellant)   |     | (Respondent)                                  |

Appellant by: Sri.Deepak Padmanabhan, CA  
Respondent by: Sri.Ganesh R.Gale, Standing Counsel

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| Date of Hearing : 29.05.2024 | Date of<br>Pronouncement: 31.07.2024 |
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**ORDER**

**Per Keshav Dubey, JM :**

This appeal at the instance of the assessee is directed against the order of National Faceless Appeal Centre, Delhi /CIT(A) dated 15.02.2024 vide DIN & order No. ITBA/NFAC/S/250/2003-24/1060989709(1) passed u/s.250 of the Income-tax Act, 1961 (“the Act”) for Assessment Year (AY) 2017-2018.

2. The assessee has raised the following grounds:-

*“The Learned Assessing Officer failed to appreciate the fact that your Appellant was acting on behalf of the Math and not in personal capacity.*

*2. The Learned Assessing Officer erred in not understanding that the entire cash collections were Capital receipts as they were for construction of temple.*

*3. The Learned Assessing Officer, while agreeing to the non-taxability of Hundi Collection for the period prior to demonetization,*

*chose to tax only the Hundi Collection only for the period after demonetization, which is devoid of any logic.*

*4. The Learned Assessing Officer, while in possession of the bank statement of your Appellant, had erroneously calculated Bank interest received and other donations received by cheque as Cash deposits and added them U/s 69A of the Act, which clearly proves non application of mind by the Learned Assessing Officer.*

*5. The Learned Commissioner (Appeals) has erred in not considering the above points before dismissing the appeal.*

*6. The Learned Commissioner (Appeals) has erred in not giving proper opportunity to your Appellant before deciding the said appeal.”*

3. At the outset, the AR of the Assessee submitted that there is a short delay in filing the appeal before this Tribunal by 15 days. He further submitted by way of an affidavit that the delay is caused due to the fact that assessee being a computer illiterate rarely checks his emails & for this reason he could not check the notices & order sent on the email and accordingly prayed to condone the short delay in filing the appeal, in the interest of justice. He also submitted that the delay is unintentional and no benefit can be attributed to the assessee in filing the appeal belatedly. He thus prayed for condonation of the delay and requested to consider the issues raised by the assessee on merits.

4. On the contrary, the learned Departmental Representative though objected, could not controvert the genuineness in causing the delay.

5. We have perused the details filed by the assessee to justify the delay and we are satisfied that there is no malafide intention on the part of the assessee in filing the appeal belatedly. Respectfully following the ratio laid down by the Hon'ble Supreme Court in case of Collector, Land Acquisition v. Mst.Katiji & Ors. Reported in (1987) 167 ITR 471 (SC), the delay caused in filing the appeal before this Tribunal stands condoned and admitted for adjudication.

6. Now the brief fact of the case are that the assessee being an individual filed his return of income on 30.03.2018 in ITR-1 for the assessment year 2017-2018 vide acknowledgement No.558090390300318 declaring total income at Rs.Nil. Thereafter, the case was selected for scrutiny under CASS to verify the cash deposits made during the demonetization period and accordingly notice u/s.143(2) as well as notice u/s.142(1) of the Act along with the questionnaire were issued and duly served on the assessee electronically. Notice u/s.133(6) of the Act was also issued to the bank calling for the account extracts. As per the ITS details, during the financial year 2016-2017, the assessee has deposited an amount of Rs.58,90,854 and Rs.11,91,915 during the demonetization period into the SB account No.62180841762 maintained with the erstwhile State Bank of Hyderabad now the State Bank of India, Nehrugunj Branch, Kalaburagi. During the course of assessment proceedings, the assessee contended that the bank account with SBI bearing account No.62180841762 is actually belonging to the Peethadipathi of Gurupadalingeshwar Virakt Math, a religious and charitable trust. Further, the assessee submitted that he is acting as the

Peethadipathi of the said trust and the trust is entirely a religious trust having huge number of devotees. The devotees voluntarily contribute kanike (donation) in small amount running from Rs.1/- to Rs.101/- to deity in person at paduka and through hundi. The donation received from the devotees are the only source of deposits in the above said bank account. The AR vehemently submitted that as the personal PAN of the assessee was attached to the above mentioned bank account by mistake, and therefore, the same is reflecting in the personal capacity of the peethadipathi & not the Trust. As the assessee is completely dedicated to the math, the donation received are used exclusively for the object of nitya pooja, Prasad, pravachan, jatra and such other religious activities and submitted that the cash deposits into bank by the temples / math from the offering placed by the devotees in donation boxes and hundies will not come under the tax scanner as per the version of the Revenue Secretary. During the course of assessment proceedings, the assessee has also filed the copy of trust deed along with copy of PAN of the trust in support of his claim. The Assessing Officer (AO), on the other hand, did not accept the explanation furnished by the assessee on the ground that the assessee has deposited the amount in cash & the same were withdrawn or transfer amounting to Rs.42,11,392 on various dates by way of RTGS/NEFT/Transfer/Cheque to various persons. The name of the bank account holders is appearing to be that of the assessee only and also attached his personal PAN. Thus, the entries in the bank account clearly indicate that the assessee has not spent any amount towards the expenditure on math as contended in his explanation. Further, the AO was of the view that in support of his claim the assessee neither produced any books of

account nor Certificate of registration u/s.12A in the name of the trust. Further, it is also observed by the AO that no return of income is filed in the name of the trust and accordingly held that the assessee has deposited the money into the above bank account out of his undisclosed income and accordingly added the same u/s.69A r.w.s. 115BBE(1) of the Act.

4. Aggrieved by the assessment completed u/s.143(3) of the Act, the assessee preferred an appeal before the NFAC. The NFAC, confirmed the view taken by the AO and dismissed the appeal on the ground that the bank account is in the personal name of the assessee and the same is attached with his personal PAN. It was further observed by the NFAC that the assessee has neither maintained any regular books of account nor registration u/s.12A is obtained and also no return of income has been filed in the name of the trust. Further, no evidence in the form of resolution for having opened the hundis in front of other trustees and witnesses has been produced. In view of the above facts, the ld CIT(A) dismissed the grounds of appeal and the addition made by the AO is upheld.

5. Aggrieved by the order of the NFAC, the assessee has filed the present appeal before the Tribunal. Before us the learned AR of the assessee vehemently submitted that the assessee is a Peethadipati or Mahant of Gurupadlingeshwar Virakta Math, and involved in number of spiritual and charitable activities. The assessee being spiritual person and also peethadipati of the trust, was also involved in the construction of a temple in Bablad dedicated to Lord Channaveera Shivayogi. During the period prior to the demonetization there being

a festival session of Dusshera and Deepavali as well as other spiritual activities for which the trust had received decent collection of money in the hundi. After demonetization was announced it was decided among the Peetathipathi and other Sishyas of the math that the amount in the hundi would be collected and deposited by the Peetathipathi in his account for the purpose of construction of the temple. The learned AO while agreeing to the non-taxability of the hundi collection for the period prior to demonetization, chose to tax only the hundi collection for the period during demonetization only, which is devoid of any logic and clearly proves the non-application of mind on the part of the ld.AO.

6. The learned Departmental Representative, on the other hand, supported the orders of the authorities below and submitted that as the bank account is in the name of the assessee and not in the name of the trust and the assessee has also not proved the genuineness of the transaction, the authorities below has rightly added Rs.11,91,915/- as undisclosed income of the assessee u/s.69A of the Act.

7. We have heard rival submissions and perused the material on record. It is an undisputed fact that the assessee has deposited during the financial year an amount of Rs.58,90,854/- and Rs.11,91,915/- during the demonetization period into the SB Account No.62180841762 maintained with the erstwhile State Bank of Hyderabad, now the State Bank of India, Nehrugunj Branch, Kalaburagi as observed by the AO in his Assessment Order. The AO has only brought to taxed an amount of Rs.11,91,915/- as

undisclosed income u/s.69A r.w.s. 115BBE(1) & (2) of the Act. It is also an undisputed fact that the assessee is a Peethadipathi or Mahant of Gurupadalingeshwar Virakta Math and having no other source of income. It is also not controverted by the authorities below that the source of the cash deposited are out of the donations in small amount by deity in person at paduka and in hundi and the same were used exclusively for the objects of Nitya pooja, Prasad, pravachan, jatra as well as for the construction of the temple. The AO in our opinion has accepted the source of hundi collections on the one hand by accepting Rs.58,90,854/- deposited into the bank A/c while on the other hand added Rs.11,91,915/- only deposited during the demonetization period, which is devoid of any logic. We are of the opinion that as the explanation offered by the assessee are genuine and the AO has also accepted the sources of the part of deposit, then we do not find any reason to sustain the balance addition of Rs.11,91,915/- u/s.69A of the Act, as the assessee has offered proper explanation and the AO in our opinion has not brought any adverse material on record to establish that the money were not deposited out of the hundi collection of the trust. Merely because the assessee has submitted the wrong PAN by mistake cannot be the sole ground for the addition u/s.69A of the Act. In the present case, no books of account are maintained by the assessee as observed by the authorities below and the assessee has offered explanation about the nature and source of deposit of money, which are also not contradicted by the AO. Therefore, in our opinion, the addition of Rs.11,91,915/- u/s.69A of the Act will not sustain. It is ordered accordingly.

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

**Order pronounced in the open court on 31<sup>st</sup> July, 2024.**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore; Dated: 31<sup>st</sup> July, 2024  
Devadas G\*

Copy to:

1. The Appellant.
2. The Respondent.
3. The CIT(A) Concerned.
4. The DCIT concerned.
5. The Sr. DR, ITAT, Bangalore.
6. Guard File.

Asst.Registrar  
ITAT, Bangalore