



।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B" :: PUNE

**BEFORE SHRI SATBEER SINGH GODARA,  
JUDICIAL MEMBER AND  
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No.703/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2017-18

Sandesh BalasahebThhopate, Samajseva Manch, C/o.Gurukrupa Xerox, Alandi Road, Bhosari, Pune – 411039. PAN: ALNPT1522E	Vs	The Income Tax Officer, Ward-8(4), Pune.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Sarang Gudhate – AR
Revenue by	Shri Sourabh Nayak – Addl.CIT(DR)
Date of hearing	05/08/2024
Date of pronouncement	07/08/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income tax Act, dated 08.02.2024 for the A.Y.2017-18. The assessee has raised the following grounds of appeal :

“1. Under the facts and circumstances of the case and in law, Ld Commissioner of Income Tax(Appeals) is erred in treating 5% of amounts credited in bank account as Income of assessee.



2. Under the facts and circumstances of the case and in law, Ld Assessing officer e Ld.Assessing Officer not followed the principles of Natural Justice.

3. The appellant craves the permission to add, amend, modify, revise, substitute, delete or alter any/all of the above grounds of appeal if deemed necessary at the time of hearing of the appeal.”

### **Submission of Id.AR :**

2. The Id.Authorised Representative(Id.AR) of the assessee submitted that assessee is an Advocate, the amount deposited in the bank accounts does not pertain to assessee, but it belongs to the clients who had paid for the purpose of payment of stamp duty, purchase of stamp paper etc.,

2.1 The relevant part of written submission of assessee is reproduced as under :

*During the Assessment Year 2017-18, Assessee was paying Online e-challans of various parties who wants to pay Stamp duty and Registration fees to treasury department of the State Government through the portal known as 'GRAS' (Government Receipt Accounting System). Parties gives cash for online e-Challan payment as most of the parties belongs to rural area and not well verse with process of stamp duty payment, Asessee have made payment on behalf of those parties for online stamp duty payments.*

### **2. Assessment Proceedings**

*In the Ex-party Assessment Proceedings, Ld Assessing Officer has made addition of Rs.11,35,000/- u/s 69A with respect to cash deposited during Demonetization period and*



*addition of Rs.53,09,559/- being 15% of Rs.3,53,97,062/- amounts credited bank account other than SBN deposited during the demonetization period.*

*4.3 The summary of bank transactions in Account No.34573757942 held with State Bank of India, Bhosari Branch is as under :*

<b>Particulars</b>	<b>Amount(Rs.)</b>	<b>Amount(Rs.)</b>
<i>Opening Balance in Bank as on 1-Apr-2016</i>		35,460.53
<b>Add:</b>		
<i>Cash Deposited during demonetization period Amounts credited bank account other than SBN</i>	11,35,000.00	
	3,56,89,962.38	3,68,24,962.38
<b>Less:</b>		
<i>Stamp Purchase</i>	3,56,46,491.00	
<i>Office / Shop Expenses</i>	4,35,263.30	
<i>Cash Withdrawal</i>	20,000.00	
<i>PMJJBY</i>	330.00	
<i>PMSBY</i>	12.00	
<i>Bank Charges</i>	4,684.29	
<i>Reversal of Deposit Entry</i>	4,45,000.00	
<i>Refund to Customer</i>	1,00,000.00	3,66,51,780.59
<b>Closing Balance as on 31-Mar-2017</b>		<b>2,08,642.32</b>

*From the above it can be seen that out of the total receipt, assessee's income for the year is less than Rs. 2 Lakh which is represented by way of closing balance in account. However Ld CIT(A) is estimated the same at Rs 17,69,853/- (Being 5% of Rs.3,53,97,062/-) which is unreasonable.*

*4.4 Assessee's Submission is accepted in subsequent Assessment*

*In assessee's case, Assessment Proceedings for the Assessment Year 2018-19 was initiated on same issue of cash deposit and credits in banks. The said Assessment Proceedings was completed u/s 147 r.w.s. 144B wherein submission made by the assessee is accepted and no adverse inference is drawn on the*



*issue in the case of the assessee. Relevant extract of assessment Order is as under: (Refer Page No 178 of Paper Book)*

*“3.4 Reasons for inference drawn that no variation is required on this issue. During the assessment proceeding, relevant details were called for from the assessee. In response, the assessee filed reply time to time. The reply of the assessee has been perused in the backdrop of the submissions made and the documentary evidences attached by him, against the reason for reopening.*

*It is seen that the assessee is a lower by profession and is involved in the activities of sale and purchase of land, land registration and other allied activities. It is also seen that in cases, where his clients has issued regarding the payment of stamp duty and registration cases, where his clients has issued regarding the payment of stamp duty and registration fees, the assessee has deposited this amount in his own account and then paid the stamp duty and registration charges. He has given evidence as to the cash deposits made in his account and has given a justification to the same. The assessee has submitted his bank account statement reflecting the various cash deposits. The assessee has given a day wise summary of the various cash deposits made in the account. The assessee has also given a copy of 264 challans, on a sample basis, of various people on whose behalf he has deposited the money in the account of the GRAS(Government Account Receipt System). It is also seen that all the amounts have been utilized for the deposit of stamp duty and registration fees in the treasury of the account of the Inspector General of Registration (IGR). It is also seen that these amounts vary from individual to individual and the challans are different from each other. In the light of the above mentioned facts, the submission made by the assessee is accepted.*

*In view of the above facts, no adverse inference is drawn on the issue in the case of the Assessee.”*

*Considering above facts in totality, It is clear that no tax liability arisen in assessee case.*

*5. Ground No.2 - Principle of Natural Justice not followed by CIT(A) / NFAC*

*Ld Commissioner of Income Tax Appeal / NFAC has issued Hearing Notice dated 29th January 2024 wherein due date of*



*Hearing was fixed at 12th February 2024. (Refer Page No.180 of Paper Book.) However, Ld CIT(A) / NFAC has passed Order u/s 250 on 8th February 2024 i.e. prior to date of hearing. (Refer page No.16 of Paper Book) Hence Order of CIT(A) / NFAC is without compliance with principles of natural justice and need to set aside.”*

**Submission of Id.DR :**

3. The Id.Departmental Representative(Id.DR) for the Revenue relied on the order of Assessing Officer. Ld.DR submitted that assessee had not filed any evidence to prove that money belongs to his clients. Assessee is not maintaining books of accounts. Assessee should have submitted a clear one to one explanation regarding the cash deposits and its utilization for the purpose of his clients, which assessee failed to prove.

**Findings & Analysis :**

4. We have heard both the parties and perused the records. The assessee had not filed Return of Income for A.Y.2017-18. The Assessing Officer(AO) received information that assessee had deposited cash in the bank account maintained with State Bank of India(SBI). Therefore, Assessing Officer issued notice u/sec.142(1) of the Act asking assessee to furnish Return of Income for A.Y.2017-18. Assessee failed to file the Return of Income. Then, show cause notice was issued on 30.05.2019,

assessee failed to file any reply. The assessment order gives details of the notices issued and non-compliance to the said notices. The Assessing Officer passed order u/sec.144 of the Act. The AO held that during the demonetization period, assessee had deposited cash in specified currency notes of Rs.11,35,000/- in the bank account. AO made addition of Rs.11,35,000/- u/sec.69A of the Act.

4.1 The AO also held that there were total deposits of Rs.3,53,97,062/- in the bank account other than Rs.11,35,000/-, mentioned above. Since there was no explanation from the assessee, AO treated the 15% of Rs.3,53,97,062/- as profit of the assessee and accordingly made the addition. Aggrieved by the same, assessee filed appeal before the Id.CIT(A). The Id.CIT(A) reduced the Gross Profit to 5% instead of 15%.

4.2 Aggrieved by the order of the Id.CIT(A), assessee filed appeal before this Tribunal. It is an admitted fact that assessee has not filed Return of Income for A.Y.2017-18. Ld.AR pleaded that assessee had received the impugned amounts from his clients for purchase of stamps, for payment of stamp duty on behalf of his



clients, accordingly, assessee had paid stamp duty on behalf of his clients. In the paper book, at page no.136 to 175 assessee enclosed copy of Government Receipt Accounting System which was print outs taken from the Government of Maharashtra Website. However, from the said print out, it is not possible to understand that these payments have been made by assessee, unless assessee files copies of corroborative evidence. Also, there are voluminous payments. We specifically asked ld.AR to demonstrate co-relation of each entry appearing in the Government Receipt Accounting System, filed by assessee at page no.136 to 175 of the paper book with the entries appearing in the assessee's bank account. Ld.AR explained that the exercise will take lot of time and also ld.AR needs to ask these facts to the assessee. Ld.AR requested that the issue may be set-aside to the AO for verification.

4.3 We have observed that assessee has filed the copies of Government Receipt Accounting System at page no.136 to 175. However, these payments needs to be cross-tallied with assessee's bank account. Also, assessee needs to prove that these payments were made on behalf of his clients. In these facts and circumstances of the case, we set-aside the issue to the Assessing



Officer for denovo adjudication. The AO shall provide opportunity of hearing to assessee. We direct the assessee to furnish the details to the AO. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open Court on 7<sup>th</sup> August, 2024.

**Sd/-**  
**(S.S.GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 7<sup>th</sup> August, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.