

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.805/PUN/2024

Assessment Year : 2017-18

DCIT, Circle-8, Pune	Vs.	Seetaram Lokaya Shetty, Plot No.G-78, G- Block, Near Thermax Chowk, Akurdi, Pune 411 035 Maharashtra PAN : ABYPS7578N
Appellant		Respondent

Assessee by : None
Revenue by : Shri Arvind Desai
Date of hearing : 20.08.2024
Date of pronouncement : 20.08.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the Revenue directed against the order of National Faceless Appeal Centre, Delhi dated 29.02.2024 for the Assessment Year 2017-18.

2. Briefly the facts of the case are as under :

The appellant is an individual engaged in the business of money lending. The appellant collects cash through daily collection agents from the housing ladies and from small shopkeepers. The Return of Income for the A.Y. 2017-18 was filed on 07.11.2017 disclosing total income of Rs.47,71,200/-. The case was selected for scrutiny assessment through Computer Assisted Scrutiny Selection (CASS) for

verification of large cash deposited in the bank account. Statutory notices u/s.143(2)/142(1) were issued to the appellant calling upon him to explain the source of cash deposits in bank and other details. The appellant only submitted copy of cash book but failed to make any submissions. From the details of cash book submitted by the appellant, the Assessing Officer noticed that the appellant deposited cash during demonetization period in Specified Bank Notes to the tune of Rs.1,22,57,000/- but cash balance as per books of account is only to the extent of Rs.23,13,306/-. The details of the cash deposits are given at page 4 of the assessment order. On failure of the appellant to submit any explanation about the sources of cash deposits made, the Assessing Officer vide order dated 31.12.2019 passed u/s.143(3) made addition of the balance amount of Rs.99,43,694/- (Rs.1,22,57,000 – Rs.23,12,306) as unexplained cash credit u/s.68 of the Act.

3. Being aggrieved, the appellant preferred an appeal before the CIT/NFAC. The CIT(A)/NFAC after considering the submissions of the appellant gave relief to the appellant by holding as under :

“5. I have carefully considered the assessment order, grounds of appeal and the appellant submissions. Careful examination of the cash book submitted by the appellant shows that the appellant regularly deposits cash in the bank accounts against which the appellant had sufficient cash balance in hand. The appellant not only deposited cash during the demonetisation period, but he had also deposited cash prior to and after demonetisation. The cash balance in the cash book submitted is reflective of the business affairs of the appellant as explained during the assessment and the appeal proceedings and I do not find any discrepancy in the cash book submitted to explain the impugned cash deposits in the bank accounts. In view of the above, the Assessing Officer is directed to reconcile the cash deficit/shortage as noted in the assessment order with the cash book submitted by the appellant and allow relief to the appellant.”

4. When the matter was called on, none appeared on behalf of the respondent-assessee. We, therefore proceed to dispose of the appeal on merits after hearing the Id. Departmental Representative.

5. We heard the Id. Departmental Representative for the Revenue and perused the material on record. On mere perusal of para No.5 of the impugned order, the CIT(A)/NFAC remanded the matter to the Assessing Officer, merely accepting the submissions/evidences placed before him, without waiting for the remand report from the Assessing Officer. The Assessing Officer should be given an opportunity to examine the additional evidence or document produced by the appellant and to produce any evidence or document in rebuttal of the additional evidence produced by the appellant. The CIT(A)/NFAC had failed to follow the mandatory provisions as envisaged in Rule 46A(3) of the Income Tax Rules, 1962. The CIT(A)/NFAC has no power to set-aside the matter to the Assessing Officer. The CIT(A)/NFAC ought to have passed a reasoned order on merits on receipt of the remand report from the Assessing Officer. Therefore, we set-aside the order of the CIT(A)/NFAC for *denovo* adjudication after obtaining the remand report from the Assessing Officer. We hold and direct accordingly.

6. In the result, the appeal filed by the Revenue stands partly allowed for statistical purposes.

Order pronounced on this 20th day of August, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 20th August, 2024.

Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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