

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

S.M.C. MATTER

ITA no.126/Nag./2023
(Assessment Year : 2017-18)

Hotel Fakirchand Dhaba
01, Hotel Fakirchand Dhaba
Gahegaon, Tah. Saoner, Nagpur 411 009
PAN – AACFH8739F

..... Appellant

v/s

Income Tax Officer
Ward-3(4), Nagpur

..... Respondent

Asessee by : None
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 12/08/2024

Date of Order – 21/08/2024

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 10/03/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

“1. On the facts and the circumstances of the case the learned CIT(A) erred in sustaining the addition of Rs.1,51,000/- as unexplained Income u/s 69A of the Income Tax Act, 1961.

2. On the facts and the circumstances of the case the learned CIT(A) erred in not accepting the fact that the cash deposit of Rs.1,51,000/- of demonitised currency was out of the sale proceeds and bank balance of Rs.2,54,344.52 as on 08.11.2016.

3. The assessee craves leave to add, alter or amend the grounds of appeal at the time of hearing."

3. Brief facts of the case are that the assessee is running business of Bar and Restaurant. He has deposited ₹ 1.50 lakh cash in the bank account. During the assessment proceedings, the assessee has not been able to substantiate cash deposit, however, it is submitted that cash deposits are from sales while running the business of Bar and Restaurant. The Assessing Officer, however, has denied the claim of expenditure made by the assessee.

4. When the matter was carried before the learned first appellate authority, the learned CIT(A) also confirmed the order so passed by the Assessing Officer.

5. I have heard the arguments of the learned Departmental Representative, perused the material available on record and gone through the orders of the authorities below. I find that the assessee has specifically mentioned that cash deposits are sales from running the business of Bar and Restaurant wherein generally the customers pay cash in lieu of the consumption of food, liquor, etc. Therefore, I am of the opinion that the amount so received by the assessee on sale from running the business of bar and restaurants and being a meagre amount of ₹ 1.50 lakh, the same cannot be doubted. According to my opinion, the learned CIT(A) was not justified in upholding the order passed by the Assessing Officer while confirming the addition. Thus, I set aside the impugned order passed by the learned CIT(A) and allow the grounds of appeal raised by the assessee.

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

Order pronounced in the open Court on 21/08/2024

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 21/08/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur