

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No. 1216/Bang/2024
Assessment Years : 2017-18

Prathamika Krishi Pattina Sahakara Sanga Niyamita, A/P, Mantur, TQ Mudhol Dist. Bagalkot, Mantur - 587 121. PAN – AACAP 2704 R	Vs.	The Income Tax Officer, Ward – 1, Bagalkot. .
APPELLANT		RESPONDENT

Assessee by	:	Shri Varun Bhat, CA
Revenue by	:	Ms. Neha Sahay, JCIT (DR)

Date of hearing	:	05.08.2024
Date of Pronouncement	:	19.08.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER :

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 30/04/2024 in DIN No.ITBA/NFAC/S/250/2024-25/1064471698(1) for the assessment year 2017-18.

2. The only issue raised by the assessee is that the learned CIT-A erred in confirming the addition made by the AO under section 69 of the Act amounting to Rs. 55,10,634.00 representing the cash deposited in the bank during the demonetization period.

3. The assessee in the present case is an AOP and filed the return of income declaring income at Rs. NIL after claiming the deduction under Chapter-VI-A of the Act. There was cash deposit by the assessee of specified banknotes in its bank during the demonetization period. The source of such cash deposit was explained by the assessee, stating that it has received money in cash from its members which was deposited in the bank. However, the AO found that the specified banknotes is no more a legal tender effective from 9th November 2016 by virtue of the gazette notification bearing No. 2652 dated 8 November 2016. Accordingly, the cash received by the assessee from its members is valueless but the same has been deposited by the assessee in its bank during the demonetization period which represents the value in its bank accounts. Accordingly, the AO treated the same as unexplained money of the assessee and added under section 68 of the Act to the total income of the assessee.

4. Aggrieved assessee preferred an appeal to the Id. CIT-A who confirmed the order of the AO.

5. Being aggrieved by the order of the Id. CIT-A, the assessee is in appeal before us.

6. The Id. AR before us filed a written submission and a paper book running from pages 1 to 7 and 1 to 56 and contended that source of money in the hands of the assessee was accepted by the AO during the assessment proceedings. Such source of cash deposit has been treated as unexplained money under section 68 of the Act merely on the reasoning that this money was accepted after 8th of November 2016 when such specified banknotes were no more legal tenders. However, in

such facts and circumstances the various Tribunals have deleted the addition made by the revenue authorities. To this effect, the Id. AR before us drawn our attention on the order of the ITAT in the case of Mahaveera Minority Credit Co-operative Society Ltd versus ITO in ITA No. 528/Bang/2024 wherein such addition was deleted by the ITAT vide order dated 13 June 2024.

7. On the other hand, the Id. DR before us vehemently supported the order of the authorities below.

8. We have heard the rival contention of both the parties and perused the material available in record. In the present case, the assessee claimed to have received money in SBN after 8 November 2016 which was deposited in the bank account during the demonetisation period. As per the revenue, the SBN were not the legal tender during the relevant time and therefore such currency was nothing but a piece of paper having no value. But the assessee by accepting such SBN during demonetisation and then depositing such SBN in its bank account during the demonetisation period has got the benefit of equivalent value in the new currency which was representing the unexplained money of the assessee and therefore the same was added under the provisions of section 68/69A of the Act.

9. It is the admitted position that the specified bank notes (cessation of liabilities) Act 2017 provides that no person shall knowingly or voluntarily hold, transfer, or receive any specified bank note on and from the appointed date i.e. 31st day of December 2016. Before 31st December 2016 i.e. between 9th November 2016 to 30th December the banks, and other institution such as petrol pumps, hospitals, Government

Department were allowed to accept SBN with certain restrictions. In other words, up to the appointed date, the Government of India and RBI were bound to exchange the SBN once they are tendered for exchange until 30th December 2016. Accordingly, such SBN cannot be treated as just a piece of paper having no value on or after 9 November 2016 as alleged by the revenue. We also find that this Tribunal in the case of Anantpur Kalpana v. ITO reported in 138 taxmann.com 141 involving identical facts and circumstances has held as under:

9." I have carefully considered the rival submissions. Both the AO and CIT(A) accepted the fact that the cash receipts are nothing but sale proceeds in the business of the assessee. The addition has been made only on the basis that after demonetization, the demonetized notes could not have been accepted as valid tender. Since the sale proceeds for which cash was received from the customers was already admitted as income and if the cash deposits are added under section 68 of the Act that will amount to double taxation once as sales and again as unexplained cash credit which is against the principles of taxation. It is also on record that the assessee was having only one source of income from trading in beedi, tea power and pan masala and therefore provisions of section 115BBE of the Act will have no application so as to treat the income of the assessee as income from other sources. Hon'ble Kolkata Tribunal in the case of CIT v. Associated Transport Pvt. Ltd. reported in 84 Taxman 146 on identical facts took the view that when cash sales are admitted and income from sales are declared as income, wherein the Hon'ble Tribunal found that the assessee had sufficient cash in hand in the books of account of the assessee, that there was no reason to treat the cash deposits as income from undisclosed sources. The Hon'ble Vishakapatnam Tribunal in the case of ACIT v. Hirapanna Jewelers in ITA No. 253/Viz/2020 on identical facts held that when cash receipts represent the sales which the assessee has offered for taxation and when trading shows sufficient stock to effect the sales and when no defects are pointed out in the books of account, it was held that when Assessee already admitted sale proceeds as revenue receipts . Therefore there is no case of addition u/s 68"

10. In view of the above and after considering the facts in totality, we hold that the SBN deposited by the assessee during the demonetisation period cannot be treated as unexplained money under section 68/ 69A of the Act merely for the reason that the assessee accepted the same after announcement of demonetisation.

11. However, it is pertinent to note that the assessee is under the obligation to explain the source of money received during the demonetisation period which has not been verified by the authorities below. Therefore, we are inclined to set aside the issue to the file of the AO for fresh adjudication as per the provisions of section 68/69A of the Act or any other provisions of the Act as applicable to the impugned transaction for the cash received from the parties. Hence, the ground of appeal of the assessee is hereby partly allowed for the statistical purposes.

12. In the result, the appeal of the assessee is hereby partly allowed for the statistical purposes.

Order pronounced in court on 19th day of August, 2024

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 19th August, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore