



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

**BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT  
MEMBER AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.997/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2017-18

Vijaykumar Shankarlal Malpani, Plot No.25, Sadguru Nagar, Meharun, Jalgaon – 425001. Maharashtra.  PAN: AFTPM0800N	Vs	The Income Tax Officer, Ward-1(3), Jalgaon.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Nemin Shah - AR
Revenue by	Shari Sandeep P Sathe – JCIT(DR)
Date of hearing	20/08/2024
Date of pronouncement	20/08/2024

**आदेश/ ORDER**

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

This appeal filed by the assessee against the order of  
ld.Commissioner of Income-tax(Appeals)[NFAC] under section  
250 of the Act, dated 11.03.2024 for the A.Y.2017-18. The  
assessee has raised the following grounds of appeal :

*“1. On facts and in circumstances of the case and in law, the  
learned CIT(A) – NFAC erred in confirming addition of rs.10,92,448/-*



*U/s.69A without appreciating the facts and taxed the income U/s.115BBE of the Act.*

2. *The Appellant craves leave to add, amend, alter, vary and or withdraw any or all the above grounds of appeal at any time before or at the time of hearing.”*

**Submission of Id.AR :**

2. The Id.Authorised Representative for the Assessee filed a paper book containing 156 pages. Ld.AR invited our attention to page 38 of the paper book which is a table explaining cash deposits on various dates. Ld.AR submitted that the Assessing Officer(AO) has made addition of Rs.14,89,900/- which was the entire cash deposited in Vijaya Bank Account of the assessee, which was containing specified bank currencies only of Rs.3,72,500/- and other deposits were of the normal currencies. Assessee has duly submitted cash book before the AO as well as Id.CIT(A). Assessee has submitted entire copy of the bank statement. Ld.AR submitted that assessee is a milk vendor and assessee's business is mainly in the cash. The assessee has duly explained entire cash deposits and hence addition is not sustainable. Ld.AR filed application for admission of Additional Evidence, along with copy of certificate issued by Bank. Ld.AR submitted that Bank certified that Assessee had deposited only Rs.3,72,500/- of SBN Notes.



**Submission of Id.DR :**

3. The Id.Departmental Representative(Id.DR) for the Revenue relied on the order of the AO. Ld.DR submitted that assessee vide letter dated 12.08.2024 had filed a certificate issued by Bank of Baroda giving the brake-up of SBN Notes deposited during the Demonetization Period. This bank certificate was not filed before the AO. Therefore, AO should get opportunity to verify the same.

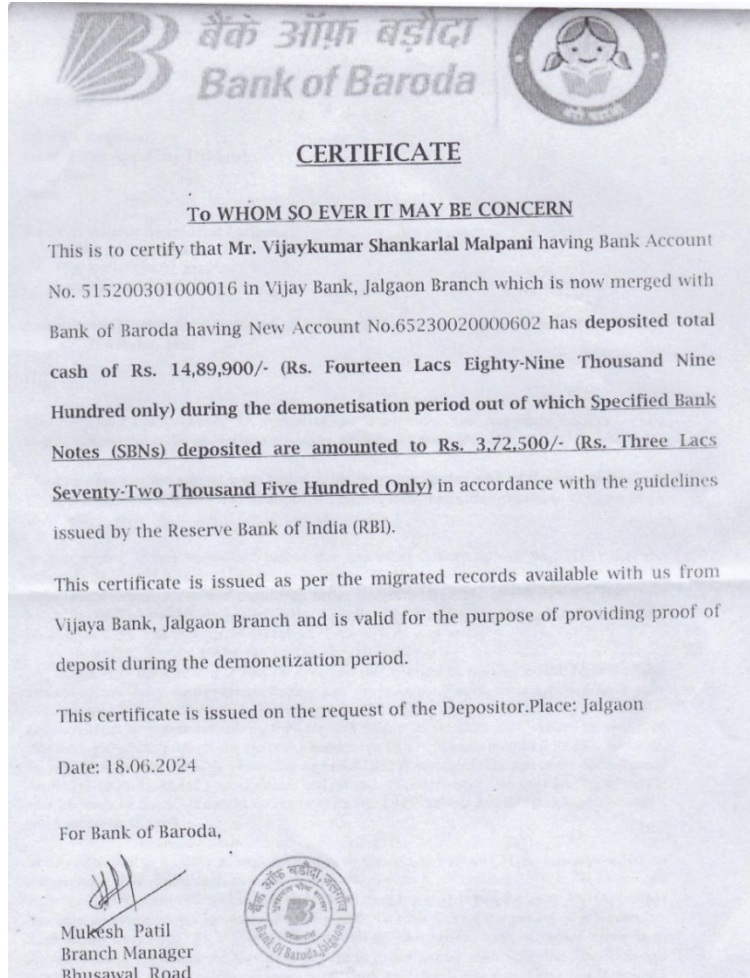
**Findings & Analysis :**

4. We have heard both the parties and perused the records. The AO has observed in the assessment order that during the period 09.11.2016 to 30.12.2016 assessee has deposited Rs.14,89,900/- in the Vijaya Bank Account No.515200301000016. The AO issued notices to the assessee, however, according to the AO, assessee failed to comply the notices and hence AO passed an ex-parte assessment order making addition of Rs.14,89,900/- u/sec.69A of the Act. Aggrieved by the assessment order, assessee filed appeal before the Id.CIT(A).

4.1 Before the Id.CIT(A) assessee submitted that assessee had made a submission before the AO on 18.10.2019 and 29.11.2019. Assessee had submitted copy of bank account, month wise cash



deposits in bank, copy of sale register, details of cash deposits during the Demonetization Period, Financial Statements etc. Assessee has also submitted before the Id.CIT(A), copy of account statement issued by “Jalgaon Jilha Krushi Audyogic Sarva Seva Sahakari Sanstha Maryadit (Milk division) Jalgaon” popularly called as “Vikas Doodh” to demonstrate purchase of milk during the year. However, Id.CIT(A) confirmed the addition of Rs.10,92,448/- stating that these were SBN Notes deposited during the period and remains unexplained. We have perused the certificate filed by assessee issued by Bank of Baroda. The relevant part of the certificate is as under :





4.2 Thus, the Bank has certified that out of Rs.14,89,900/-, only Rs.3,72,500/- were pertaining to SBN Notes. Ld.CIT(A) has given a finding that cash balance as on 08.11.2016 in the assessee's cash book was Rs.3,97,452/-. However, the certificate issued by Bank is additional evidence and was not available before AO / ld.CIT(A). There was valid and sufficient reason for not filing the said Bank Certificate before the AO/CIT(A). Therefore, we are satisfied that additional evidence needs to be admitted. Accordingly, as per Rule 29 of the ITAT Rules, we admit the additional evidence. However, since it was not before the AO/CIT(A), we set-aside addition made by AO for denovo adjudication to Assessing Officer. The Assessing Officer is directed to consider the additional evidence filed by the assessee. Accordingly, Ground No.1 raised by the assessee is allowed for statistical purpose.



4.3 Ground No.2 is general in nature, needs no adjudication.

Hence, Ground No.2 is dismissed.

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

Order pronounced in the open Court on 20<sup>th</sup> August, 2024.

Sd/-  
(VIJNAY BHAMORE)  
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 20<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, “एस एम सी” बेंच, पुणे / DR, ITAT, “ SMC” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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