

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.881/CHNY/2024

निर्धारण वर्ष/Assessment Year:2017-18

Shri Arunachalam Sankar,
3/10, Indhira Street,
Perambalur – 621 212.

The Income Tax Officer,
Vs. Ward 1,
Perambalur.

PAN: CMJPS 9306L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Girish Kumar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 22.08.2024

घोषणा की तारीख/Date of Pronouncement

: 22.08.2024

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1060927038(1) dated 14.02.2024. The assessment was framed by the Income Tax Officer, Ward 1, Perambalur for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 30.12.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A)-NFAC in confirming the action of AO in re-computing the Gross Profit rate at 12% on the gross sales and making addition of Rs.6,82,333/-. For this, assessee has raised various grounds which are argumentative, exhaustive and hence, need not be reproduced.

3. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee is a dealer of Bharathi Airtel Ltd., selling SIM card, etc. The AO selected the case for complete scrutiny to verify the following:-

- “1. Nature of business*
- 2. All Bank Statements for the period 1.4.2015 to 31.3.2017*
- 3. Source of cash deposits made during demonetization period (Rs.19,99,950)*
- 4. VAT return for the financial years 2014-15, 2015-16 and 2016-17*
- 5. Statement of affairs/Balance sheet as on 31.3.2017*
- 6. Cash book / Day book”*

The AO during the course of scrutiny assessment made addition of unexplained credit of Rs.19,99,950/- being cash deposits made during demonetization period in Corporation Bank. The CIT(A) deleted the addition but stated that the cash deposit is arising out of business receipts and assessee was allowed to accept SBNs during the period of demonetization and the assessee has made total sale

value of Bharathi Airtel SIM cards amounting to Rs.98,80,605/- and according to him, the trading result declared by assessee are not verifiable in the absence of books of accounts. Therefore, he deleted the addition of cash deposits but estimated profit rate at 12% as against estimated by assessee at 5% by observing in para 6.9 & 6.10 as under:-

6.9. In view of the facts and circumstances, submissions of the appellant, findings of the AO, material evidence brought on record and the provisions of Section 69 r.w.s 115BBE of the Income-tax Act, it is my considered opinion that the appellant has been able to prove the source of cash deposits i.e. out of business receipts and it also emerged that the appellant was allowed to accept SBNs during the period of demonitization as per notification. Further, the appellant has shown payments to the Bharthi Airtel Limited for purchase of recharge coupons. The AO has not brought any evidence on record to the fact that the appellant has any other source of income to controvert the contentions of the appellant. As cited above, the appellant has been able to prove the genuineness of the transactions i.e. they constitute business receipts. However, the appellant himself admitted that during this financial year pertaining to the assessment year, the appellant has made total sale value of Rs. 98,80,605/- and offered net profit of Rs. 2,91,526/-. On the facts and circumstances, I am, therefore, of the considered opinion that the provisions of Section 69 r.w.s 115BBE of the Income-tax Act invoked by the AO to bring the impugned cash deposits by the appellant to tax are not justified.

6.10. The appellant has not maintained any books of accounts. In the absence of books of account, the trading results shown by the appellant being non-verifiable cannot be relied upon, it will be, therefore, reasonable and fair to apply GP @ 12% to the gross sales of the appellant amounting to Rs. 11,85,673/- and after allowance of GP of Rs.5,03,340/- already shown by the appellant, the addition works out to be Rs.6,82,333/-.

Aggrieved, assessee is in appeal before the Tribunal.

4. We noted that the assessee is regularly disclosing profit rate at 1% to 2% and in this year, due to large increase in sale, profit rate was declared at 5%. Even in scrutiny assessment in assessment year 2018-19 (copy of order filed before us, which is placed on record), the profit rate is accepted at 1%. In term of the above, we are of the view that a reasonable and fair profit rate should be applied and according to us, instead of 12%, it should be applied at the rate of 6%. We accordingly estimate the profit rate at 6% and direct the AO to re-compute the income accordingly. The appeal of the assessee is partly-allowed.

5. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court at the time of hearing on 22nd August, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 22nd August, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त /CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT