

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC - C” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT**

ITA No.1218/Bang/2024
Assessment Year : 2017-18

Shri. Hosahalli Jodinarasappa Lakshminarayana, Asst. Director Pension Ground Floor, V V Tower, Podium Block, Dr. Ambedkar Veethi, Bengaluru – 560 001. <b>PAN : ADIPL 5182 D</b>	Vs.	ITO, Ward – 3(3)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaina Bhatia, CA
Revenue by	:	Shri. Ganesh R. Gale, Standing Counsel for Department.

Date of hearing	:	14.08.2024
Date of Pronouncement	:	19.08.2024

**ORDER**

*Per George George K, Vice President:*

This appeal at the instance of the assessee is directed against the Order of Addl/JCIT(A) dated 30.05.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2017-18.

2. The grounds raised read as follows:

1. *The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*
2. *The learned CIT[A] is not justified in sustaining the addition of Rs.6,90,000/- as unexplained cash deposited in the bank account u/s.69 of the under the facts and in the circumstances of the appellant's case. He failed appreciate that addition*

*made is out of suspicion and surmise, assumptions and presumptions and due to conjunctures and the same requires to be deleted.*

- 2.1 The addition sustained by the learned CIT[A] u/s.69 of the Act is opposed law and facts of the appellant's case in as much as, the cash deposits made were from out of the amounts given to the appellant's son for purchase of property and out of known and explainable sources of funds in support of which Affidavit was also filed in course of appellate proceedings and hence, the addition made deserves to be deleted.*
- 2.2 The learned A.O. is not justified in invoking the provisions of section 115BBE and taxing the aforesaid addition made at the rate of 60% under the facts and in the circumstances of the appellant's case.*
- 3. Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies himself liable to be charged to interest u/s. 234-A, 234-B and 234-C of the Act, which under the facts and in the circumstances of the appellant's case and the same deserves to be cancelled.*
- 4. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.*

3. Brief facts of the case are as follows:

Assessee is an individual and a retired employee of Revenue Department, Government of Karnataka. He is deriving pension income and income from other sources. For the Assessment Year 2017-18, the return of income was filed on 30.03.2018 declaring total income of Rs.6,12,910/-. The assessment was selected for limited scrutiny through CASS by issuance of notice under section 143(2) of the Act, to examine the source of cash deposits made during the demonetization period amounting to Rs.6,90,000/-. During the course of assessment proceedings,

assessee had explained that at the time of retirement, he was in receipt of PPF/commutation of pension, etc., to the tune of Rs.48,68,067/-. It was stated that out of the retirement benefits, assessee had given a sum of Rs.10 lakhs to his son for the purchase of property. Since his son could not purchase the property as intended, he had deposited directly into assessee's bank account in the following manner :

No.	Date of Deposit	Account Number	Amount	Remarks
1.	07/09/2016	1006102010009497	3,00,000	Amount directly deposited by the appellant's son
2.	10/11/2016	1017102010010822	2,50,000	Cash received appellant's son deposited
3.	11/11/2016	1006102010009497	2,20,000	-do-
4.	12/11/2016	1024102010019201	2,20,000	-do-
TOTAL			9,90,000	

4. Out of the aforesaid amount of Rs.9,90,000/-, a sum of Rs.6,90,000/- which was deposited during the demonetization period, the AO added under section 69 r.w.s. 115BBE of the Act.

5. Aggrieved by the assessment completed under section 143(3) of the Act, assessee filed appeal before the First Appellate Authority (FAA). Before the FAA, assessee had filed detailed written submission, copy of the bank statements and also filed a petition under Rule 46A of the Income Tax Rules, 1962 (hereinafter called the Rules), for admission of additional evidence. The additional evidence that was filed was confirmation and supporting affidavit of the assessee's son stating therein the date on which amounts were received from the assessee and the date on which the same was returned. The Addl/JCIT(A) however rejected the

contentions of the assessee and confirmed the addition made by the AO under section 69 r.w.s. 115BBE of the Act. It is not clear whether the FAA has taken note of the additional evidence that was sought to be admitted under Rule 46A of the Rules.

6. Aggrieved by the Order of the FAA dated 30.05.2024, assessee has filed the present appeal before the Tribunal. Assessee has filed a Paper Book comprising of 51 pages enclosing therein the written submission filed before the FAA, the notices issued from the Office of the AO and the FAA, the detailed statement / bank accounts, petition for admission of additional evidence along with annexures before the FAA, etc. Learned AR reiterated the submissions made before the Addl/JCIT(A).

7. The learned Standing Counsel supported the Orders of the AO and the FAA.

8. I have heard the rival submissions and perused the material on record. The solitary issue for adjudication is whether the addition of Rs.6,90,000/- in respect of cash deposits made during the demonetization period in Karnataka State Co-operative Apex Bank is to be sustained or not. The details of the cash deposits made are as under :

Sl. No.	Date of Deposit	Account Number	Amount in INR
1.	10/11/2016	1017102010010822	2,50,000
2.	11/11/2016	1006102010009497	2,20,000

3.	12/11/2016	1024102010019201	2,20,000
	TOTAL		6,90,000

9. During the course of assessment proceedings, assessee submitted that he was a retired government employee and had received at the time of retirement PF / commutation of pension, etc., to the tune of Rs.48,68,067/-. It was submitted that out of the said amount, the assessee had given a sum of Rs.10 lakhs to his son for purchase of property. It is further stated that since assessee's son could not purchase the property as intended, the said amount was returned to the assessee and deposited in the manner described above at para 3 of this Order.

10. Before the FAA, assessee had sought for admission of additional evidence by stating that assessee was unaware of the nature of income tax proceedings and did not file confirmation / affidavit from the son in support of the said factual position explained before the AO nor did the AO call upon the assessee to file the confirmation in the course of assessment proceedings. It was stated that assessee being an aged person and not familiar with the income tax proceedings and procedure, especially the e-assessment mode, the additional evidence filed before the FAA need to be taken on record. The FAA's Order does not seem to be taken note of the petition and the additional evidence filed before him.

11. On perusal of the bank statement, it is clear that assessee had sufficient cash withdrawals and sufficient source for making payment of Rs.10 lakhs to his son. The assessee's cash of Rs.10 lakhs was given to his son for purchase of property and since the purchase did not materialize, the money given by the assessee to his son was returned partly during the demonetization period. This fact has been

confirmed by the assessee's son by giving the detailed confirmation and also supporting affidavit. During the course of assessment proceedings, the AO did not call upon the assessee to file the confirmation nor did he examine assessee's son to controvert the stand taken by the assessee. During the course of appellate proceedings, the assessee though had submitted a petition for admission of additional evidence, the same was not taken note of and the Addl/JCIT(A) merely confirmed the addition made by the AO under section 69 r.w.s. 115BBE of the Act. Therefore, on the facts of the instant case, I am of the view that addition under section 69 r.w.s. 115BBE of the Act is not justified and I delete the same. It is ordered accordingly.

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

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(GEORGE GEORGE K)  
Vice President**

Bangalore.

Dated: 19.08.2024.

/NS/\*

Copy to:

- |               |                         |
|---------------|-------------------------|
| 1. Appellants | 2. Respondent           |
| 3. DRP        | 4. CIT                  |
| 5. CIT(A)     | 6. DR, ITAT, Bangalore. |
| 7. Guard file |                         |

By order

Assistant Registrar,  
ITAT, Bangalore.