



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.270/CTK/2024

Assessment Year : 2017-18

Bishnu Sen Pal, At/PO/PS: Tigiria-753040, Cuttack	Vs.	ITO, Dhenkanal
PAN/GIR No.CPIPP 2966 M		
(Appellant)	..	(Respondent)

Assessee by : Shri P.R.Mohanty, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 04/09/2024

Date of Pronouncement : 04/09/2024

ORDER

This is an appeal filed by the assessee against the order of the Id Addl/JCIT(A)- Pune dated 1.5.2024 in Appeal No.CIT(A),Bhubaneswar-2/10216/2019-20 for the assessment year 2017-18.

2. Shri P.R.Mohanty, Id AR assisted by assisted by Ms Layatmika Nath, intern 'The law College', Cuttack appeared for the assessee. Shri S.C.Mohanty, Id Sr DR, assisted by Ms Swagtika Behera, intern 'The law College', Cuttack represented on behalf of the revenue.

3. It was submitted by Id AR that the assessee is an individual and dealer for milk and milk products of 'Pragati' brand of dairy products. It

was the submission that the total turnover of the assessee during the year was Rs.2,09,63,970/-. It was the submission that the Assessing Officer on the ground that the assessee had not filed his return of income, made two additions, first representing demonetized currency which had been deposited in the bank account to an extent of Rs.12,63,000/- during the demonetization period. The second addition was an estimated addition at 4% of the turnover of the assessee treated as income of the assessee. It was the submission that the assessee being a distributor of milk and milk products of 'Pragati' brand of dairy products, same was covered as an essential commodity and the Reserve Bank of India had permitted the consumption of 500 and 1000 SBNs during the demonetized period vide a reply to an RTI query. The Reserve Bank of India had permitted to exchange the old notes and has used all the old notes at milk booths also till 15.12.2016. It was the submission that consequently the addition made by the Assessing Officer representing demonetized currency deposited in the bank account of the assessee was liable to be deleted.

4. In regard to addition representing the estimated income at 4% of the turnover, it was the submission that no comparative method has been considered by the Assessing Officer. It was the submission that the agreement of distributorship for 'Pragati' brand of dairy products has also been submitted by the assessee before the Assessing Officer which has also not been considered by the Assessing Officer. It was the submission that

the assessee was entitled to commission of 25 paise to 50 paise for every packet of milk distribution by the assessee. It was the submission that the estimation of income of the assessee at 4% was far excessive and is liable to be reduced.

5. In reply, Id Sr DR submitted that the assessee was a distributor of milk products of 'Pragati' brand of dairy products, which was provided the demonetized currency in milk booths. It was the submission that the assessee is not running milk booth and consequently, the assessee shall not be entitled to receive any demonetized currency.

6. In regard to estimation of income, it was the submission that the assessee was not maintaining any books of account and consequently, estimation as made by the Assessing officer is liable to be upheld. It was the submission that the assessee has not represented his case before the first appellate authority.

7. I have considered the rival submissions. A perusal of the facts in the present case shows that the assessee is a distributor of milk products of 'Pragati' brand of dairy products. A perusal of the reply to an RTI by the RBI shows that the milk booths are permitted to receive old notes of 500 & 1000 for utility till 15.12.2016 and extended further period till 31.12.2016. Admittedly, the assessee is a distributor of milk products, in short 'milk booths' purchased from the distributor and sale the product and pay the

amount. Obviously, the SBN currency received by the milk booths would automatically get transferred to distributor for onward transmission and onward supply of the products. Admittedly, milk is a perishable commodity. Being a perishable commodity, the credit given is also very short. Thus, the assessee admittedly would be considered as part of the milk booths system. Consequently, as the RBI has permitted the milk booths to receive old 500 and 1000 SBNs for utility, the addition as made by the Assessing Officer and confirmed by the Id CIT(A) to the extent of Rs.12,63,000/- is unsustainable, consequently deleted.

8. Coming to the estimation of income at 4%, admittedly, the Assessing Officer has not used any comparative method for estimation of the income of the assessee. On this ground alone, the addition is unsustainable and consequently same stands deleted.

8. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 04/09/2024.

SD/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 04/09/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Bishnu Sen Pal, At/PO/PS:
Tigiria, Cuttack
2. The Respondent: ITO, Dhenkanal
3. The Addl/JCIT(A)-2, Pune
4. Pr.CIT, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt. Secretary
ITAT, Cuttack

