

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

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.413/Bang/2024
Assessment Year: 2017-18

Krishnappa Paramesh No.739/32, Ward No.10 2 <sup>nd</sup> Cross Trankle City Bommasandra Bengaluru 560 099  <b>PAN NO : BURPP7788L</b>	<b>Vs.</b>	ITO Ward-4(3)(5) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Koushik, A.R.
<b>Respondent by</b>	:	Sri V. Parithivel, D.R.

<b>Date of Hearing</b>	:	31.07.2024
<b>Date of Pronouncement</b>	:	10.09.2024

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against order of NFAC for the assessment year 2017-18 dated 10.1.2024 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”).

**2.** The assessee has raised following grounds of appeal:

- Ld. FAA erred by saying assessee non-response to notices issued with sole intention of hiding particulars. As all our replies are on record, which is submitted well before the due dates or sometimes if delayed adjournment is sought for submission*
- Ld. FAA erred by passing the order without verifying all our submissions comprehensively which the authority is legally bound by, amounts to non-speaking order.  
Total tax effect : Rs.63,86,053/-*

**3.** Facts of the case are that the Assessment proceedings under the Income Tax Act, 1961 were initiated on the basis of information

that the appellant had made huge cash deposit of 1,86,08,900/- in his bank account during the demonetization period even though the old notes were banned. Notices u/s.143(2) and 142(1) were issued to the assessee. In response to the above notices, the assessee filed the submission through e-proceedings. Further, a show cause notice was issued to the assessee. In response to the same, the assessee furnished the details called for. However, in absence of any cogent material, satisfactory explanation and substantiary documentary evidence furnished by the assessee, the AO completed the assessment u/s 143(3) of the Act by making an addition of Rs.62,52,000/- u/s.69A of the Act. Against this assessee went in appeal before Id. CIT(A).

**4.** The Id. CIT(A) during the appellate proceedings observed that the assessee was provided sufficient time but did not file any submission or documentary evidence either against the observation of AO or in favour of the claim made in the grounds of appeal before Id. CIT(A). The assessee has not refuted the observations of the AO by adducing the evidences. Considering the case at hand the assessee has not filed any submission even after allowing sufficient opportunities. He observed that this view has been affirmed by ITAT Ahmedabad in the case of Amitkumar H. Shah Vs. ACIT in ITA No.2985/Ahd/2010 dated 31.12.2013, wherein following order of ITAT Delhi Bench in the case of CIT Vs. Multiplan India Pvt. Ltd. (1991) 38 ITD 320 (Del.), ITAT wherein the Tribunal has dismissed the appeal filed by the assessee for want of prosecution. In view of the reasons given above, the Id. CIT(A) sustained the addition made by the AO and accordingly dismissed the grounds of appeal of the assessee. Aggrieved, the assessee is in appeal before us.

**5.** We have heard the rival submissions and perused the material available on record. With regard to deposits during the

demonetization period, we are of the opinion that it is required to be examined in the light of various circulars issued by CBDT. Admittedly, the issue herein is with regard to deposit of cash during the demonetization period in the year 2016, which were not verified by the Id. AO in accordance with CBDT Circular wherein the various instructions have been issued by CBDT dated 21.2.2017, 3.3.2017, 15.11.2017 & 9.8.2019. The Id. A.R. submitted that as the verification of cash deposit is not in accordance with instruction of CBDT, there is inadequate enquiry in respect of cash deposited during the demonetization period. These, CBDT instructions gives hint regarding what kind of investigation, enquiry, evidences that the assessing officer is required to take into consideration for the purpose of assessing such cases.

**5.1** In one of such instructions dated 09/08/2019 speaks about the comparative analysis of cash deposits, cash sales, month wise cash sales and cash deposits. It also provides that whether in such cases the books of accounts have been rejected or not where substantial evidences of wide variation be found between these statistical analyses. Therefore, it is very important to note that whether the case of the assessee falls into statistical analysis, which suggests that there is a booking of sales, which is non-existent and thereby unaccounted money of the assessee in old currency notes (SBN) have been pumped into as unaccounted money.

**5.2** The instruction dated 21/02/2017 that the assessing officer basic relevant information *e.g.* monthly sales summary, relevant stock register entries and bank statement to identify cases with preliminary suspicion of back dating of cash sales or fictitious sales. The instruction is also suggested some indicators for suspicion of back dating of cash sales or fictitious sales where there is an abnormal jump in the cases during the period November to December 2016 as compared to earlier year. It also suggests that,

abnormal jump in percentage of cash trails to on identifiable persons as compared to earlier histories will also give some indication for suspicion. Non-availability of stock or attempts to inflate stock by introducing fictitious purchases is also some indication for suspicion of fictitious sales. Transfer of deposit of cash to another account or entity, which is not in line with the earlier history. Therefore, it is important to examine whether the case of the assessee falls into any of the above parameters are not.

**5.3** The assessee is directed to establish all relevant details to substantiate its claim in line with the above applicable instructions. We are aware of the fact that not every deposit during the demonetization period would fall under category of unaccounted cash. However, the burden is on the assessee to establish the genuineness of the deposit in order to fall outside the scope of unaccounted cash. The Ld.AO shall verify all the details / evidences filed by the assessee based on the above direction and to consider the claim in accordance with law. Needless to say, that proper opportunity of being heard must be granted to the assessee. Accordingly, the issue in dispute is remitted to the file of ld. AO for fresh consideration.

**6.** In the result, the appeal filed by assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 10<sup>th</sup> Sept, 2024

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 10<sup>th</sup> Sept, 2024.  
VG/SPS

Copy to:

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

By order

**Asst. Registrar,  
ITAT, Bangalore.**