

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member and
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 1335/KOL/2024
Assessment Year: 2017-18**

Kiran Kumar Singh,

194/2, G.T. Road, North Salkia,
Howrah -711106

[PAN: AJBPS5629M] **Appellant**

vs.

The Income Tax Officer,

Ward -47(6), Kolkata,

Ayakar Bhawan, 3 Government Place,

Kolkata - 700001 **Respondent**

Appearances by:

Assessee represented by : Subash Chand, Advocate

Department represented by : Sanjoy Paul, Addl. CIT, Sr. DR

Date of concluding the hearing : September 11, 2024

Date of pronouncing the order : September 13, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 22.04.2024 arising out of Assessment Order dated 29.10.2019, passed under Section 144 of the Act.

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

"1. Because it is fully explained that the demonetisation of currency was not applicable for the business receipts of petrol pumps and dealers of petroleum products.

The Ld. Assessing Officer has erred and acted illegally in ignoring the Notification No. 3408 (E) dated 08th November, 2016 issued by the Govt of India.

The Ld. National Faceless Appeal Centre(NFAC) Delhi has erred and acted illegally in confirming the same.

2. Because it is fully explained that the amount of Rs. 82,25,500/- deposited in bank account is out of the sale proceeds of petroleum products, i.e. petrol and diesel and the provision of section 69A of the Income Tax Act, 1961 is not applicable in view of the Notification No. 3408 (E) dated 08th November, 2016 issued by Govt of India.

The Ld. Assessing Officer has erred and acted illegally in not placing reliance on Notification issued by Govt of India rather flouting the same.

The Ld. National Faceless Appeal Centre (NFAC) Delhi erred and acted illegally in passing the order.

3. Because the assessment is bad both on facts and in law and not maintainable."

3. Brief facts of the case are that assessee filed his return of income for the AY 2017-18 by disclosed total income amounting to Rs. 7,99,870/-. The case of the assessee was selected for complete scrutiny under CASS in order to verify the cash deposit made during the demonetization period as the assessee made cash deposit of Rs. 82,25,500/- in his bank account No. 50197339079 maintained with Allahabad Bank. The Ld. AO while framing the assessment, several opportunities were given to the assessee in order to explain nature & source of such deposits made during the demonetization period. However, the assessee did not appear and filed any satisfactory explanation during the assessment proceedings. Therefore, the assessment proceedings were carried out u/s 144 of the Act by passing the assessment order dated 29.01.2019, where the addition of Rs. 82,25,500/- was made as unexplained money u/s 69A of the Act in the hands of the assessee.

4. Dissatisfied with the above order, the assessee preferred an appeal before the Ld. CIT(A) where the assessee had submitted various documents in order to substantiate its claim to prove the fact that the cash deposits were made in his bank account from the sale of petroleum products from petrol pump which he is running in the name of style of Vindhyavasini Sambharan Kendra situated in Varanasi (UP). The assessee also filed the copy of balance sheet, nature of business activity, monthly details of cash, purchase & sales before the Ld. CIT(A). However, the Ld. CIT(A) in order to verify the documents called a remand report from the AO and held that the assessee failed to prove the nature and source of cash deposit made during the demonetization period. Accordingly, the appeal of the assessee was dismissed by sustaining the order of the Ld. AO.

5. Aggrieved by the order, assessee is in appeal before this Tribunal raising multiple grounds. However, the main grievance of the assessee is that the alleged issue relating to unaccounted deposit of demonetization of currency note was not applicable for the business receipts of petrol pump and dealers of petrol pump products. In view of the Notification No. 3408(E) dated 08.11.2016 issued by the Department of Economic Affairs, Ministry of Finance, Govt. of India, therefore, the impugned order passed by the CIT(A) sustaining the order of AO is illegal and liable to be set aside. The another contention of the assessee is that since the alleged amount of Rs. 82,25,500/- deposit in bank account is out for sale proceed of petroleum products, therefore, the provisions of Section 69A of the Act is not applicable in view of the Notification No. 3408(E), dated 08.11.2016 issued by the Department of Economic Affairs, Ministry of Finance, Govt. of India. On this issue, the Ld. AR of the assessee submitted before the Bench a detailed paper book containing the following particulars in order to substantiate its claim. Therefore, he prayed before the Bench that the alleged addition made

by the AO is not sustainable in view of the above circumstances as the assessee fully disclosed the source of such cash receipt during the year. Therefore, impugned order passed by the CIT(A) may be set aside.

6. On the other hand, the Ld. DR appearing for the Revenue supported the order passed by the Ld. CIT(A) by confirming the order of AO is correct. Therefore, there is no need to infer in the order passed by the authority below.

7. We after hearing the rival submission of the parties and perusing the material available on record including paper book filed by the assessee. We find that the alleged addition made by the Ld. AO of Rs. 82,25,500/- mainly on the ground that the assessee could explain the source of money during the framing of the assessment order by the AO. However, this fact emerged from the Ld. CIT(A) order that the assessee was in the business of running petrol pump, license granted by the District Supply Officer to carry on business of petroleum products and in this regard certificate for dealership was granted by the Indian Oil Corporation Ltd. to the assessee. As per the Notification dated 08.11.2016 issued by the Department of Economic Affairs, Ministry of Finance, Govt. of India that petrol pump was operated by the assessee and which is authorised public sector oil marketing company to collect SBN Notes in lieu of sale of its products. Therefore, during the period of demonetization, assessee being authorised to collect Specified Bank Notes (SBN). Therefore, such SBN Notes cannot be termed as unexplained money and added to the income of the assessee u/s 69A of the Act.

8. We after going through the facts of the case and documents submitted by the assessee before us, we find that since the assessee is running a petrol pump dealership granted by the Indian Oil Corporation Ltd. and in view of the Circular issued by the Department of Economic Affairs, Ministry of

Finance, Govt. of India, dated 08.11.2016 (supra). The assessee is entitled to collect SBN Notes and in this connection, the assessee filed purchase invoices issued by the petroleum company in his paper book at copy of statement account of the assessee, books of petroleum company, copy of stock register, bank accounts of the assessee from November and December 2016, copy of the cash book supported the claim of assessee regarding the sale of the petroleum product of the assessee during the period of demonetization. Therefore, the adverse view taken by the authority below is not correct. We therefore, considered the facts of the case and in our forgoing findings set aside the impugned order passed by the CIT(A) and direct the Ld. AO to delete the addition as made in the case of the assessee. In terms of the above, appeal of the assessee is allowed.

9. In the result, appeal of the assessee is allowed.

Kolkata, the 13th September, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 13.09.2024.
AK, PS

Copy of the order forwarded to:

- 1 Kiran Kumar Singh
2. The Income Tax Officer, Ward -47(6), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches