

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

श्री एस एस विश्वनेत्ररवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI S.S. VISWANETHRA RAVI, HON'BLE JUDICIAL MEMBER
AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1519/Chny/2024**

निर्धारण वर्ष / Assessment Year: 2017-18

**Smt. Murugarathinasamy
Sangeetha,**
62/1, South Pudupalayam,
Erode - 638 052.

Income Tax Officer,
v. Ward -2(1),
Erode.

[PAN:DLIPS-8518-H]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by : Shri S. Sridhar, Advocate (Erode)

प्रत्यर्थीकीओरसे/Respondent by : Shri R.V. Aroon Prasaad, Addl.CIT

सुनवाईकीतारीख/Date of Hearing : 23.07.2024

घोषणाकीतारीख/Date of Pronouncement : 18.09.2024

आदेश/ ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Addl/JCIT Commissioner of Income Tax (Appeals)-3, Bengaluru, for the assessment year 2017-18, vide order dated 22.03.2024.

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

1. The order of the learned CIT(A) is bad and erroneous in law.
2. The Assessing Officer as well as the learned CIT(A) erred in not considering the written submissions filed by the appellant in proper prospective.

3. The learned CIT(A) erred in sustaining the addition by giving a finding that the sum withdrawn in the month of April, should not be kept for the seven long months in the house."

3. Brief facts are that the assessee is an individual and salaried employee filed her return of income for the assessment year 2017-18 on 31.08.2017 admitting income of Rs.3,29,860/-. The assessee has made cash deposits of Rs.5,18,500/- on 23.11.2016 and Rs.22,400/- on 10.11.2016 aggregating to Rs.5,40,900/- during demonetization period. The case was selected for limited scrutiny by CASS for the reason of cash deposits during demonetization period. During the course of assessment proceedings, the assessee submitted that she was working since 2010 and amount deposited during demonetization period was out of her salary income and in support of the same, the assessee filed proof of employment and also Form 16A issued by the institution. However, the assessee's explanation was not accepted by the Assessing Officer and concluded the assessment by making addition of Rs.2,40,900/- as unexplained cash deposits vide order dated 22.11.2019 by observing as under:-

"7.However, considering the assessee being salary employee, and also considering that the possibility of having accumulated savings for emergency purpose set apart out of dispersible income as very low, a sum of Rs. 3,00,000/- is allowed and the balance of Rs.2,40,900/- is treated as unexplained cash deposit and added to the total income returned.

8. After considering the details uploaded/submitted by the assessee through his e-filing portal, the assessment is completed as follows:-

Total income returned : Rs.3,29,680

Add: Unexplained cash deposits as discussed: Rs.2,40,900

Total income assessed : Rs.5,70,580"

Aggrieved by order of the Assessing Officer, the assessee preferred appeal before the CIT(A).

4. During the appellate proceedings, the assessee furnished bank account statement of her husband Sri B.Vinoth and explained the cash withdrawals from her husband's bank account, which was deposited during demonetization period into her bank account. However, the CIT(A) has not accepted the contention of the assessee and confirmed the addition made by the A.O by holding as under:-

"During the course of appellate proceedings, the appellant has submitted the bank statement of her husband, stating that the cash withdrawals were there and deposited in her bank account. On perusal of the bank statement of her husband it is seen that the multiple transactions were there where he has received the amount on the transfer and the amount is immediately withdrawn cash. This is only a afterthought process of any how matching the cash withdrawals and the deposits made after the completion of assessment proceedings. The maximum amount of Rs. 6,90,000/- is withdrawn in the month of April and should not be kept for the 7 long months in the house. Contention of the appellant is not accepted.

In view of the above, the appellate authority concurs with the disallowances made by the respective AO in the assessment order u/s 143(3). Hence the appeal filed on all the grounds is dismissed."

Aggrieved by the order of the CIT(A), the assessee is in appeal before us.

5. The learned AR for the assessee stated that the assessee has been working as an employee of The Kongu Vellalar Institute of Technology Trust for the past seven years and the assessee has also shown all relevant details of cash withdrawals made in her husband Mr. Balakrishnan Vinoth's (PAN: AKBPV6032C) bank account during the assessment year 2017-18 i.e., before announcement of demonetization on 08.11.2016. The amount withdrawn from her husband account apart from her savings from salary earnings has been deposited into her bank account during demonetization period to the tune of Rs.5,40,900/-. In support of the claim of the assessee that there was a gap of seven months from the date of cash withdrawals to the cash deposited into her account, the Ld.AR relied upon decision of this Tribunal in ITA No.522 & 523/Chny/2019 dated 09.11.2021 in the case of Shri A.Natarajan Vs. ITO, wherein the Tribunal on identical facts decided the issue in favour of the assessee. Therefore, the Ld.AR pleaded that both the lower authorities have erred in not considering the details and documents furnished by the

assessee by making addition of Rs.2,40,900/- as unexplained deposits which needs to be deleted.

6. Per contra, the Ld.Sr.DR relied upon the orders of lower authorities.

7. We have heard rival contentions and perused materials available on record and gone through orders of the authorities below. It is undisputed fact that the assessee is a salaried employee and filed her return of income amounting to Rs.3,29,860/-. The Assessing Officer has accepted cash deposits to the tune of Rs.3.00 Lakhs by rejecting the explanation given by the assessee for balance amount of Rs.2,40,900/- and treated the same as unexplained cash deposits. We noted that the assessee has provided necessary details of bank account of her husband Shri Balakrishnan Vinoth and proved the source of cash deposits as the amounts withdrawn from her husband's bank account during the assessment year 2017-18 i.e., prior to demonetization announcement made on 08.11.2016. We note that the Ld.AR also sought support by relying upon the decision of this Tribunal in the case of Shri A.Natarajan Vs.ITO (supra), wherein the Tribunal on an identical facts of the case decided the issue in favour of the assessee by holding as under:-

"5. I have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. The A.O accepted the cash deposit to the extent of Rs. 2,00,000/-. So far as Rs. 50,000/- is concerned, the A.O denied on the ground that there is a time gap between the borrowals and deposits. We find that simply because there is a time gap, it cannot be disbelieved that cash deposits made by the assessee is not from the sources as explained by the assessee already for an amount of s. 2,00,000/-. In view of the above, we are of the view that the addition made by the AO cannot survive."

8. In view of the above facts and circumstances of the case and considering the view of the decision of this Tribunal cited supra, we are of the considered opinion that the lower authorities have erred in treating the cash deposits of Rs.2,40,900/- as unexplained and thus, we set aside the orders of the lower authorities and delete the addition made by the Assessing Officer.

9. In the result, appeal is allowed.

Order pronounced in the court on 18th September, 2024 at Chennai.

Sd/-
(एस एस विश्वनेत्र रवि)
(S.S. VISWANETHRA RAVI)
न्यायिकसदस्य/**Judicial Member**

Sd/-
(एस. आर.रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 18th September, 2024

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आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF