

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **869/Chny/2024**
निर्धारण वर्ष / Assessment Year: 2017-18

Late N. Rajendran,
(L/H R. Udayakumar),
No. 19, Ambalathadi Street,
Dharmapuri – 636 701.

ACIT,
v. Circle -1(1),
Krishnagiri District, Hosur,
Tamil nadu.

[PAN: ABOPR-3225-B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri. T.S. Subramaniam, FCA
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 22.08.2024

घोषणा की तारीख/Date of Pronouncement

: 01.10.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 18.01.2024 and pertains to assessment year 2017-18.

2. At the outset, we find that there is a delay of 14 days in appeal filed by the assessee, for which petition for condonation

of delay along with reasons for delay has been filed. After considering the petition filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

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

1. The order of CIT(A) NFAC dated 18.01.2024 confirming the deposit of SBN currencies of Rs.26,69,000 is against the facts of the case and natural justice (Total Tax effect Rs.20,61,802)

2. The Appellant e-filed the details of collection from Sundry Debtors amounting to Rs.28,00,000 with letter dated 12.12.2019 which was not considered by ACIT circle-I, Hosur in confirming the addition of Rs.26,69,000.

3. The NFAC in the order passed u/s.250 of the Act dated 18.01.2024, have also confirmed the said addition of Rs.26,69,000.

4. When the Appellant filed the details of collection from sundry debtors with ACIT, - without cross verifying the said letter, The assessment has been completed, which was also confirmed by NFAC.

5. The Appellant filed the return of earlier years, wherein also there is availability of sundry debtors as per details given in para no.7 of the grounds of appeal filed already.

6. As per e-filed letter dated 12.12.2019, the cash balance of Rs.37,79,846 available as on 8.11.2016 was deposited in the bank account after announcement of demonetization.

7. The ground numbers 9 is not pressed and treated as withdrawn.

4. The brief facts of the case are that, the assessee is an individual, deriving income from house property, capital gains and money lending filed his return of income for the assessment year 2017-18 on 04.08.2017, declaring a total income of Rs.15,62,290/-. The case was selected for scrutiny under CASS after issuing statutory notices under the Act. The Assessing Officer noticed that the assessee has made a deposit of specified bank notes to the tune of Rs.49,00,500/- in various bank accounts during the assessment year and accepted the explanation given by the assessee to the tune of Rs.22,31,500/- and the balance amount of Rs.26,69,000/- has been added as unexplained income u/s. 69A of the Income-tax Act, 1961 (hereinafter referred to as "the Act") and passed an order u/s. 143(3) on 29.12.2019. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A).

5. In the appellate proceedings, the assessee claimed that the details of amounts collected from sundry debtors before the announcement of demonetization on 08.11.2016 had been furnished to the Assessing Officer, which has not been considered. However, the Id.CIT(A) confirmed the order of the

Assessing Officer vide order dated 18.01.2024, by holding as under:

5.2 The addition of Rs.26,69,000/- as unexplained income u/s.69A of the Act made by the Assessing Officer and the submissions of the appellant have been perused. It is seen from the assessment order that the appellant could not explain the sources for sundry debtors amounting to Rs.26,69,000/- during the course of scrutiny proceedings. During the course of appeal proceedings, the appellant submitted that he had given the name and address of the sundry debtors from whom the amount of Rs.28,00,000/- was realized along with the Ledger Extract from the books of account which was not considered by the Assessing Officer. On verification of the letter dated 12.12.2019 addressed to the AO, the appellant explained the sources for cash deposit was out of sale proceeds of vacant sites for a consideration of Rs.17,31,715/- and cash in hand as on 31.03.2016 Rs.5,00,000 which were considered by the Assessing Officer in the assessment order. The source for balance amount of Rs.26,69,000/- was stated to be out of realization of sundry debtors. However, it is seen that the appellant has not produced any evidence in support of the claim, such as, confirmation letters from debtors, copies of their bank statements and Income Tax returns in support of the claim, he appellant failed to discharge the onus lied upon him to explain the realization of debtors. With regard to transfer of case and issue of notice u/s.127(1) of the Act, it is seen from the PAN data the jurisdiction of the appellant's case lied with Ward-1, Krishnagiri till 30,01.2015 and thereafter, his PAN was transferred to Circle-1, Hosur: As per PAN jurisdiction, the AO is ACIT Circle-1, Hosur who had issued notice u/s.143(2) and also completed the assessment u/s.143(3) of the Act. As such there is no transfer of case during the course of scrutiny proceedings as raised by the appellant and the contention of the appellant is wrong and rejected. In view of the above, the action of the AO is upheld with regard to addition on account of cash deposits as unexplained income u/s.69A of the Act and grounds raised in this regard are dismissed."

Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before us.

6. The Id.AR for the assessee has stated that during the assessment proceedings the details of source for cash deposits at Rs. 49,00,500/- has been furnished by the assessee on 12.12.2019, which consists of copies of sale deeds, ledger extract of 16 parties showing the realization of sundry debtors along with the interest amount. Further, the Id.AR argued that the same details were furnished before the Id.CIT(A) also by providing explanation for the source of cash along with the entire documents in support of the same on 29.12.2023. However, the Id.CIT(A) has erred in passing the impugned order by confirming the additions made by the Assessing Officer, without considering the submissions, The Id.AR prayed for deleting additions made by the lower authorities by considering evidences for source of cash deposited during the demonetization period and allow the appeal of the assessee.

7. Per contra, the Id.DR relied on the orders of the Id.CIT(A) and prayed for confirming the additions.

8. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We noted that the assessee is an individual and has

deposited Rs.49,00,500/- in specified bank notes. As noted by the Assessing Officer, the assessee has income from house property, capital gains and money lending also. It is noted that as per the details furnished by the Id.AR, the assessee has furnished the ledger extract of the collections made from the debtors to the tune of Rs.28,00,000/- along with the interest amounts. The assessee also had furnished the documents relating to sale of three vacant sites for an amount of Rs.17,31,715/- during the assessment year along with the cash on hand of Rs.5,00,000/- as on 31.03.2016. However, the Assessing Officer has accepted the source of cash on account of sale of three vacant sites and opening cash balance and stated that the details of realization from sundry debtors has been rejected for non-production of evidences to the tune of Rs.28,00,000/- and made an addition of Rs.26,69,000/- as unexplained income u/s. 69A r.w.s. 115BBE of the Act. We noted that the assessee has filed ledger extracts of the sundry debtors as proof of cash collections from the debtors both before the Assessing Officer and that of the Id.CIT(A), which has not been considered. In the present facts of the case, since the assessee has furnished the evidences in support of source of cash deposited to the tune of Rs.28,00,000/- also,

we are hereby setting aside the order of the Id.CIT(A) by directing the Assessing Officer to delete the addition made u/s. 69A of the Act. Thus, we allow the grounds of appeal raised by the assessee.

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

Order pronounced in the court on 01st October, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /Vice President

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

चेन्नई/Chennai,

दिनांक/Dated, the 01st October, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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