

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"H (SMC)" BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No. 3005/Mum/2024**

**(Assessment Year :2017-18)**

**Vandana Sadharam Soni**

Flat No.G-1, Ground Floor,  
Himanshu Apt., Near Sewa Niketan  
Hospital, Ulhasnagar - 421003  
PAN-DSIPS5346L

..... Appellant

v/s

**Income Tax Officer,  
Ward - 2(2),**

Mohan Plaza, Wayle Nagar,  
Khadakpada, Kalyan  
Maharashtra - 421301

..... Respondent

Assessee by : Ms. Manisha Ghind

Revenue by : Shri Akhatar Hussain Ansari, Sr.DR

Date of Hearing – 02/09/2024

Date of Order – 16/10/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 30/03/2024 passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Additional/Joint Commissioner of Income Tax (Appeals)-3, Bengaluru, [*"learned Addl./Joint CIT(A)"*], for the assessment year 2017-18.

2. In this appeal, the assessee has raised the following grounds: –

"1) The Hon'ble CIT (Appeals) has erred in upholding addition of Rs.6,55,000/- made by the Ld. Assessing Officer without appreciating the facts of the case and law.

2) The Hon'ble CIT (Appeals) has failed in appreciating the documentary evidences placed before him in the form of paper book vide submissions dated 13/03/2024.

3) The Hon'ble CIT (Appeals) has erred in disregarding the judicial pronouncements relied upon by the appellant vide its submissions made in the course of first appellate proceedings.

4) The Hon'ble CIT (Appeals) has failed in appreciating the fact and the law that the credit for amount withdrawn earlier from bank had to be allowed/had to be considered as source of cash in hand so as to 08/11/2016.

5) Without prejudice to the above, appellant submits that the Hon'ble CIT (A) has erred in upholding addition of Rs.6,55,000/-, without appreciating the fact that even as per the directions issued by CBDT, vide instruction No 3 of 2017, dated 21/12/2017, an amount upto Rs. 2,50,000/- had to be considered/deemed to be available with any citizen/tax payers, which admittedly does not calls for any adverse inference.

6) The Hon'ble CIT(Appeals) has erred in upholding the action of Ld. Assessing officer of levying tax @60% on the basis of amended provisions of Sec 115BBE of the I.T. Act, without appreciating the fact and the provisions of law."

3. The only grievance of the assessee is against the addition of ₹ 6,55,000/- made on account of cash deposited in the bank account during the demonetisation period.

4. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is an individual and for the year under consideration filed her return of income on 30/03/2018 declaring a total income of ₹ 4,14,000/-. The return filed by the assessee was selected for scrutiny and statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. During the assessment proceedings, upon perusal of the bank statement of the accounts of the assessee maintained with Konark Urban Co-Operative Bank and HDFC Bank,

it was noticed that there were regular credits through cash and debits through clearing throughout the year under consideration. Upon enquiry about the source of the cash deposits, the assessee submitted that she is in the business of general insurance as an agent of Reliance General Insurance Co Ltd. The cash deposited in the bank accounts is out of the receipt obtained from the customer for insurance premiums. The assessee further submitted that she received a commission on it, which was offered to tax in the return of income filed for the year under consideration. During the assessment proceedings on perusal of the bank statement of the account maintained with Konark Urban Co-Operative Bank, it was noticed that the cash amounting to ₹ 26,38,000 was deposited during the demonetisation period, out of which the assessee deposited cash of ₹ 6,55,000 in the Specified Bank Notes ("SBN"). As per the assessee, out of the total cash deposited ₹ 6,55,000 in SBN, the assessee received ₹ 2,01,500 from the sundry creditors and balance ₹ 4,53,500 was received from the cash withdrawn during the year and cash in hand available. The Assessing Officer ("AO") vide order dated 09/12/2019 passed under section 143(3) of the Act disagreed with the submissions of the assessee and held that the assessee has not submitted any satisfactory explanation regarding the source of the cash deposit. It was further held that the assessee deposited the demonetisation currency even after 09/11/2016 when the assessee was not supposed to accept the demonetized currency from anyone. As regards the source stated for the balance deposit of ₹ 4,53,500, it was held that the assessee has not submitted any supporting evidence to prove available cash

in hand. Accordingly, treating the source of the cash deposit of ₹ 6,55,000 as unexplained, the AO made the addition under section 69A of the Act.

5. The learned CIT(A), vide impugned order, dismissed the appeal filed by the assessee and upheld the addition made by the AO. Being aggrieved, the assessee is in appeal before us.

6. We have considered the submissions of both sides and perused the material available on the record. In the present case, it was found that during the demonetisation period, the assessee deposited cash in SBN in her bank account maintained with Konark Urban Co-Operative Bank. As per the assessee, she being an insurance agent has been collecting insurance premiums from various customers/clients in cash and depositing the same in her regular bank account. Further, the corresponding payment of the insurance premium is made to the insurance company for and on behalf of her clients, in lieu of which she earns commission which amount has been duly offered to tax. As per the assessee, out of the total amount of ₹ 6,55,000/- in dispute in the present case, ₹ 2,01,500/- was received by her from her clients on 07/11/2016 and 08/11/2016, i.e. prior to the demonetisation period. Further, the balance amount of ₹4,53,500 is her own cash balance available with her, which was out of cash withdrawn earlier by her from her bank account. In support of the aforesaid submission, the assessee has placed on record her complete bank statement in Konark Urban Co-Operative Bank for the year under consideration. From the perusal of the aforesaid bank statement, forming part of the paper book from pages 23-126, we find that the assessee has been depositing cash and making the

payment through the banking channel to Reliance General Insurance Co Ltd. We find from the aforesaid bank account that the payment was made only to General Insurance Co. Ltd. and the said transaction was almost on a daily basis throughout the year under consideration, including the demonetisation period from 09/11/2016 to 31/12/2016. Thus, we do not find any merits in the findings of the AO that the assessee accepted demonetised currency from its customers even after 09/11/2016. The aforesaid conclusion is also supported by the fact as evident from the aforesaid bank statement that the entire cash deposited in the bank account was not transferred as the insurance premium on the very same date. Further, it is undeniable that time was available with the assessee to deposit the SBN till 31/12/2016, be the same was her own withdrawal/savings or money received from the customers for payment of insurance premium. Thus, merely because the assessee deposited SBN in her bank account from 10/11/2016 till 25/11/2016 does not give rise to the presumption that the said demonetised currency was received by the assessee from the customers on and after 09/11/2016. Therefore, the aforesaid findings of the AO are nothing but presumptions without any supporting material evidence.

7. Apart from the aforesaid details, the assessee has also furnished the details of insurance policies in respect of which cash was received by her and the premium was paid through her bank account during the demonetisation period. From these details, forming part of the paper book on pages 128-132, we find that the assessee not only furnished the name of the policyholders and date of payment but also the premium amount and

the policy nos. in respect of which payment was made during the demonetisation period.

8. Further in order to support its submission that the balance amount of ₹4,53,500/- is her own cash balance available with her, the assessee has furnished the bank statement of account maintained with the HDFC Bank, which forms part of the paper book from pages 133-137. Further, on page no. 127 of the paper book, the assessee has also submitted the reconciliation of cash withdrawn from April 2016 till November 2016 and submitted that out of the total cash withdrawal of ₹5,52,175/- an amount of ₹4,53,500/- was deposited during the demonetisation period.

9. From the perusal of aforesaid details, we are of the considered view that the assessee has sufficiently explained the circumstances of the deposit of ₹ 6,55,000/- in demonetised currency in her bank account during the demonetisation period and therefore the addition made by the AO and upheld by the CIT(A) under section 69A of the Act is completely unsustainable. Accordingly, the impugned addition is directed to be deleted and the grounds raised by the assessee are allowed.

10. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 16/10/2024

**Sd/-**  
**PRASHANT MAHARISHI**  
**ACCOUNTANT MEMBER**  
**MUMBAI, DATED: 16/10/2024**  
*Prabhat*

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai