

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

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.1712/Bang/2024
Assessment year : 2017-18

Ambasa Babansa Raibagi, Ganjipeth, Gajendragad, Gadag – 582 114. PAN : AGBPR 5059F	Vs.	The Income Tax Officer, Ward 2, Gadag.
APPELLANT		RESPONDENT

Appellant by	:	Shri Kashinath Kalamath, Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel

Date of hearing	:	07.10.2024
Date of Pronouncement	:	21.10.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 17.07.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 confirming the order of the Assessing Officer.

2. Briefly stated the facts of the case are that the assessee did not file return of income within the time limit u/s. 139(1) of the Act. As per information with the department, it was noticed that the assessee has deposited cash in his bank account during the demonetisation period. Under operation clean money the assessee was issued notice u/s. 142(1) and provided opportunity to file return of income, but the assessee did not file. Accordingly show cause notice was issued to the assessee and assessee submitted reply as per para 8 of the assessment order. The AO noted that the assessee did not provide the details and documents in respect of cash deposits. Accordingly the case was completed u/s. 144 on the basis of material available and addition u/s. 69A was made to the tune of Rs.25,66,195. Aggrieved from the above order, the assessee filed appeal before the First Appellate Authority (FAA).

3. In the appellate proceedings the assessee filed submissions in response to the notice of the Id. FAA. The Id. FAA has brushed aside the submissions of the assessee which is evident from pg. 1 to 3 of the appeal set and dismissed the appeal of the assessee. Aggrieved, the assessee is in appeal before the ITAT.

4. The Id. AR of the assessee strongly objected the order passed by the Id. FAA without considering the submissions of the assessee. He submitted that the money belongs to partnership firm and the bank has issued certificate which is placed at page 10 of appeal set. He further submitted that as per Deed of Partnership, the assessee has retired since

02.04.2016 and he is not concerned with the activity of the partnership firm and the assessee's PAN was linked to the bank account and now it has been changed. The assessment must have been made in the hands of the partnership firm.

5. The Id. DR strongly relied on the order of lower authorities and submitted that the assessee could not substantiate with credible evidence regarding source of cash deposits during the demonetisation period during the course of assessment as well as appellate proceedings.

6. Considering the rival submissions, we note that, cash was deposited in the bank account during demonetisation period and PAN of the assessee was linked with the bank account of the firm. The assessee was issued notice for filing return of income. The Bank has issued certificate which is placed at page 10 regarding wrong linking of assessee's PAN. We also note that the Id. FAA has not considered the submissions of the assessee and he has passed a cryptic order. Since the assessment was completed u/s. 144 and considering the totality of the facts of the case and in the interest of justice, we remit the issue back to the AO for fresh consideration and decision as per law. The assessee is directed to file necessary documents that would be essential and required for substantiating his case for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings for early disposal of the case.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 21st day of October, 2024.

Sd/-
(SUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 21st October, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.