

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1770/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Marappa Gounder Ramasam,
Annai Poultry Farm, Ariyur Village,
Ariyur Post, Namakkal 637 015.
[PAN: AGMPR0841A]

Vs. The Income Tax Officer,
Ward 2,
Namakkal.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T.S. Lakshmi Venkatraman, F.C.A.
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT
सुनवाई की तारीख/ Date of hearing : 14.10.2024
घोषणा की तारीख /Date of Pronouncement : 23.10.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 29.04.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2017-18.

2. Ground No. 1 raised by the assessee in challenging the action of the Id. CIT(A) in confirming the disallowance of ₹.2,98,500/- on account of unexplained cash deposit.

3. We note that the Assessing Officer found that the assessee made cash deposit to an extent of ₹.15,19,500/-. The Assessing Officer asked the assessee to produce cash book for the period relevant to the AY 2017-18. According to the Assessing officer, the cash balance was shown in the books of account as on 08.11.2016 is ₹.32,36,718/-, but, however, the Assessing Officer proceeded to add an amount of ₹.2,98,500/- as deposited on 21.11.2016 and 23.11.2016 for not giving reasonable explanation. The Id. CIT(A) discussed the same in para 8.3, wherein, it is observed that why the assessee has not deposited the entire cash available with him as on the date of demonetization and no explanation was given compelling the assessee to deposit the said old currency in instalment. Thus, the Id. CIT(A) confirmed the addition made by the Assessing Officer.

4. The Id. AR Shri T.S. Lakshmi Venkatraman, F.C.A. argued that there is no dispute with regard to the cash balance as on 08.11.2016, but, however, the Assessing Officer and the Id. CIT(A) doubted the assessee, why the entire cash was not deposited in one-go. He submitted that the designated bankers were not accepting the cash deposit due to heavy rush and they were accepted only in instalments. Accordingly, the assessee deposited balance cash on 21.11.2016 and 23.11.2016. The Id.

AR vehemently argued that the Id. CIT(A) fell in error in confirming the addition made by the Assessing Officer when the assessee has cash balance before the announcement of demonetisation.

5. Having considered the submissions of the Id. AR and Id. DR and facts and circumstances of the case, we note that admittedly, there is no dispute with regard the cash balance had by the assessee as on 08.11.2016 at ₹.32,26,718/-. The addition is only made on the suspicion as to why the assessee did not make deposits in one-go and made in instalments. We find the observations of the Id. CIT(A) is not justified in questioning that why the assessee did not make deposit in one-go, when he has noted at para 8.3 of the impugned order that, in his remand report, the Assessing Officer affirmed that there was a cash balance of ₹.32,26,718/- as on 08.11.2016 on the basis of cash book, the Id. CIT(A) ought to have accepted the submissions of the assessee. Considering the facts and circumstances of the case, we set aside the order of the Id. CIT(A) on this issue and delete the addition made by the Assessing Officer. Thus, the ground raised by the assessee is allowed.

6. Ground No. 2 raised by the assessee in challenging the action of the Id. CIT(A) in confirming the addition of ₹.4,00,000/-.

7. We note that the Assessing Officer made addition of ₹.15,00,000/- on account of unexplained investment. According to the Assessing Officer, the assessee has shown ₹.15,00,000/- as addition in the capital account. Since no documentary evidence filed showing the source of the said capital account, the Assessing Officer treated the same as unexplained investment. The Id. CIT(A) discussed the issued in para 7.2.2 of the impugned order. According to the Id. CIT(A), the assessee obtained loan to the tune of ₹.11.00 lakhs from the Syndicate Bank in his name and on behalf of his family members. The Id. CIT(A) agreed the claim of the assessee in enhancement of capital account to an extent of ₹.11.00 lakhs arising out of jewellery loan, which was utilized for business of the assessee. However, the Id. CIT(A) doubted the remaining addition of ₹.4.00 lakhs, which is stated to have been taken from wife and son towards gift money. We find that according to the Id. CIT(A) there is no evidence showing the receipt of gift of ₹.4.00 lakhs

8. The Id. AR submits that the confirmation letters from assessee's wife and son were furnished before the Id. CIT(A) as additional evidence. He submits that the Id. CIT(A) did not examine the same nor ought to have been obtained remand report from the Assessing Officer. He submits that the assessee's son is an NRI and employed in Canada and

drew our attention to the confirmation letter dated 31.01.2024, which is on record. The Id. AR submits that the assessee's son made cash gift of ₹.2 lakhs on various dates to meet the assessee's business needs. The Id. AR also submits that the assessee's son also assessed to tax in India for AY 2016-17 & 2017-18 and his main source of income is from salary.

9. On perusal of the confirmation letter, which is on record, we note that the assessee's son is employed in Canada having PAN AMAPJ3062H and he is also assessed to tax in India for AY 2016-17 & 2017-18. Copy of the acknowledgement of ITR foray 2017-18 is placed on record, wherein, declaring total gross income of ₹.3,90,124/-. Further, the confirmation letter dated 10.04.2017 is placed on record, wherein, it is noted that the wife of the assessee declared that she has given ₹.2.00 lakhs to her husband out of her past years savings of income. She further stated that she is house-wife earning income out of milch animals. She made a total gift of ₹.2.00 lakhs on various dates to meet his business expenses. We find that her husband is running poultry firm along with agricultural activities. As rightly pointed out by the Id. AR, these two gifts remained unexamined by the Id. CIT(A) even though they were available on record during first appellate proceedings. On perusal of both the confirmation letters, we note that wife of the assessee clearly stated

that she has given ₹.2.00 lakhs on various dates to her husband to meet his business expenses out of her savings. There is no contrary finding brought on record by Revenue in this regard. Further, the assessee's son was employed in Canada and for AY 2017-18 he declared gross income of ₹.3,90,124/-, but, no return of income filed for AY 2016-17. Taking into account the confirmation letters and submissions of the Id. AR, we note that the assessee's wife and son proved the source of gift of ₹.2.00 lakhs each to the assessee on different dates to meet his business expenses, which were derived out of past savings and salary income respectively. Therefore, the order of the Id. CIT(A) is not justified in confirming the view of the Assessing Officer in holding that no explanation offered in this regard. Thus, ground No. 2 raised by the assessee is allowed.

10. Ground No. 3 raised by the assessee in challenging the action of the Id. CIT(A) in confirming the addition of ₹.3,94,500/- on account of unexplained cash deposit.

11. The assessee claimed ₹.17,02,850/- as agricultural income. The Assessing Officer doubted the same while comparing the agricultural income of earlier year i.e., AY 2016-17 with the year under consideration. According to the Assessing Officer, the assessee claimed huge agricultural income in the year under consideration. We note that it was

explained that the assessee has 22 acres of agricultural land, out of which, 6 acres of land are used for poultry business and remaining 16 acres for agricultural activities. The Assessing Officer asked the assessee to furnish patta, chitta, adangal, copy of VAO certificate and details of agricultural income in the year under consideration. Having no evidence/proof furnished by the assessee in support of agricultural income, the Assessing Officer allowed only ₹.7,50,000/- and disallowed balance amount of ₹.9,52,850/-. The Id. CIT(A) discussed the same in para 8.5 of the impugned order. The Id. CIT(A) restricted the said addition to an extent of ₹.3,94,500/-.

12. The Id. AR submits that the assessee has sufficient land holding to earn the agricultural income as declared in the return of income. He submits that out of 22 acres of land, the assessee utilized 16 acres of land into agricultural activities and vehemently argued that it is reasonable to derive ₹.1 lakh income out of 16 acres. We find force in the argument of the Id. AR supporting the claim of the assessee. Further, we find no reasons given by the Assessing Officer as well as the Id. CIT(A) in making addition and restricting the same respectively. The Assessing Officer made addition only on account of comparing earlier year's agricultural income and in our opinion, there is no basis for the same. We

find no reasons were recorded by the Id. CIT(A) in rejecting the claim of the assessee. Therefore, the agricultural income restricted by the Id. CIT(A) at ₹.3,94,500/- is not justified and it is deleted. Thus, ground No. 3 raised by the assessee is allowed.

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

Order pronounced on 23rd October, 2024 at Chennai.

Sd/-
(S.R. RAGHUNATHA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 23.10.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.