

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.729/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Mr. Ashok Kumar Mahadev, 5/478A, Postal Colony, Perur Chettipalayam, Coimbatore-641 010.	v.	The ITO, NCW-4(2), Coimbatore.
[PAN: BNKPM 1907 N]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.H. Yeshwanth Kumar, CA
प्रत्यर्थी की ओर से /Respondent by	:	Smt. Gouthami- Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	06.08.2024
घोषणाकीतारीख /Date of Pronouncement	:	09.10.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 25.01.2024 for the Assessment Year (hereinafter in short "AY") 2017-18.

2. The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the addition of ₹18 lakhs being cash deposits made during demonetization period as unexplained money u/s.69A of the Income Tax Act, 1961 (hereinafter in short 'the Act').



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3. The brief facts are that the assessee is an individual, who filed his return of income (RoI) for AY 2017-18 on 29.01.2018 admitting total income of ₹8,04,390/-. Later, the case of the assessee was selected for scrutiny and the AO noted that the assessee had deposited cash to the tune of ₹30 lakhs in the bank a/c maintained with Bank of Baroda, Coimbatore during demonetization period on three (3) occasions (14th, 16th & 18th November, 2016). The AO asked the assessee to furnish *nature and source* of the cash deposits with supporting evidence. Pursuant thereto, the assessee submitted his income & expenditure account for the year ended 31.03.2016 & 31.03.2017 and also balance sheet as on 31.03.2016 & 31.03.2017. According to the AO, the assessee didn't furnish the details of the cash available with him as on 08.11.2016 (i.e. a day prior to demonetization). Therefore, from the details furnished before him, he worked out the cash balance as on the date of demonetization (i.e. 08.11.2016) as under:-

Particulars	Amount Rs.
Cash at Bank and on hand as on 31.03.2016 (Rs. 1,000 + 5,25,800) as per Balance Sheet furnished by the assessee as on 31.03.2016	5,26,800
Add: The assessee has shown total receipts of Rs. 10,83,749/- for the F.Y. 2016-17. Therefore, the proportionate receipts upto 31.10.2016 (7 months) works out to Rs. 6,32,187 (10,83,749/12 x 7)	6,32,187
Estimated cash available with the assessee as on 01.11.2016	11,58,987
Add: Extra credit given to the assessee from 01.11.2016 to 08.11.2016	41,013
Estimated cash available with the assessee as on 08.11.2016	12,00,000



And since, the assessee had deposited cash of ₹30 lakhs during demonetization period, whereas, the cash balance according to the AO as on 08.11.2016 was ₹12 lakhs, the balance amount of ₹18 lakhs (Rs.30 lakhs **minus** Rs.12 lakhs) was treated as unexplained money u/s.69A of the Act.

4. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who confirmed the action of the AO.

5. Aggrieved, the assessee is in appeal before this Tribunal.

6. We have heard both the parties and perused the material available on record. We note that the assessee is an astrologer by profession and has returned an income of ₹8,04,390/- for AY 2017-18. And since, he had deposited ₹30 lakhs during demonetization period, the AO asked him to explain the nature & source of the same; and the assessee filed the details like income & expenditure account as on 31.03.2016 & 31.03.2017 and also the balance sheet as on 31.03.2016 & 31.03.2017. Since, the assessee couldn't furnish the details of the cash available with him as on 08.11.2016, the AO estimated the cash available with assessee as on 08.11.2016 at ₹12 lakhs and directed the assessee to prove the nature & source of balance amount of ₹18 lakhs, which according to the AO, the assessee couldn't explain. So he added it u/s.69A of the Act. On appeal,



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the assessee submitted that ten (10) parties borrowed money from him had returned the same (loan-amount) during the year under consideration, which has been deposited during the demonetization period along with the cash in hand as on 08.11.2016 from the profession of Astrology. The name of the lenders/PAN as on 31.03.2016 (AY 2016-17) is as under:-

ASHOK KUMAR MAHADEV

DETAILS OF LOANS & ADVANCES AS ON 31-03-2016

Sl. No.	NAME AND ADDRESS OF THE PARTY	PAN	AMOUNT RS
1	DURAISAMY R. 1/2 MYLANKATTUR, SATHIYANAICKAN PALAYAM KUMARAMANGALAM, THIRUCHENGODU	AVMPD67988	200000
2	ARUNKUMAR D, 1/2 MYLANKATTUR, SATHIYANAICKAN PALAYAM, KUMARAMANGALAM, THIRUCHENGODU	BTSPA5937L	160000
3	VADIVEL S. D113, NAPIRAMPATTI, UTHANGARAI, KRISHNAGIRI	AWNVPV2150K	160000
4	VIPUL NM VARYA THAZHAM, PAYAMBRA, KURIJVATOOR KOZHIKODE	BFTPV9635M	120000
5	SETTU V D113. NAPIRAMPATTI UTHANGARAI KRISHNAGIRI	HJQPS0615R	200000
6	MEKALA R. 127 C. NGR STREET, KALAPPATI, COIMBATORE	AJGPM9391R	150000
7	NAGARAJ K 200 8TH STREET, BHAKTAVATSALAM NAGAR, KAILASAMPALAYAM, THIRUCHENGODU	AUFFN90450	150000
8	SUBRAMANIAN C 0113, NAPIRAMPATTI, UTHANGARAI KRISHNAGIRI	GGIPS9197G	100000
9	NAGARAJAN U. 17, BOOPATHIRAJA NAGAR, POOCHIYUR DEENAMPALAYAM COIMBATORE	AFCPN6900M	200000
10	ASHOK KUMAR M. 5/478 POSTAL COLONY, PERUR CHETTIPALAYAM, COIMBATORE (FATHER)	NO PAN	500000
		TOTAL	1950000



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7. The Ld.CIT(A) taking note that no enquiry regarding the aforesaid fact was made during the course of assessment proceedings, he called for Remand Report from the AO, who issued notices to the assessee and acknowledges that they all received the notices, but failed to give confirmation to him (AO) about the loan taken from assessee and gave such a report to Ld CIT(A).

8. However, the assessee controverted the aforesaid remand-report, and instead, brought to our notice that nine (9) parties among ten (10) had given their confirmation via online on 29.07.2022 (one person died) and forwarded a copy of the same to the Ld.CIT(A), which fact the Ld.CIT(A) acknowledges at Page No.9 of his order. After going through the replies given through online of nine (9) persons (except Mr.Ashok Kumar .M who has taken loan of ₹5 lakhs, with no PAN details), the Ld.CIT(A) acknowledged that out of nine (9) creditors, five (5) didn't file any return of income; and the replies was similar, he wasn't convinced; and in addition, he noted from the return of income of the assessee for AY 2016-17 that there were no debtors shown in the return of income for AY 2016-17 i.e. amount of total sundry creditors were 'zero' at column No.2.7. Therefore, he wasn't convinced with the aforesaid explanation and confirmed the action of the AO making addition of ₹18 lakhs u/s.69A of the Act. Before us, the Ld.AR filed the income & expenditure account



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parties to whom the assessee had given loan as noted supra. A perusal of the same would reveal that out of ten (10) creditors, nine (9) have given their PAN details and only one person (i.e. Mr.Ashok Kumar) doesn't have PAN. We note that the AO had issued notices through post which have been served upon them. It is noted that except one borrower (Mr.Ashok Kumar) who has taken a loan of ₹5 lakhs, all others have given their replies through online which has been reproduced by the Ld.CIT(A). Only five (5) out of nine (9) parties, didn't file the return of income can't be the ground for disbelieving their identity, when all of them have furnished their PAN details and notices have been served on them through post. The amounts given to these creditors are noted to be small amounts ranging from ₹1.60 lakhs to ₹2 lakhs. Therefore, we direct deletion of ₹14.5 lakhs received from nine creditors, and confirm the balance addition of ₹3.5 lakhs.

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

Order pronounced on the 09th day of October, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 09th October, 2024.
TLN, Sr.PS



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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF