

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.168/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2017-18

Mr. P. Ravi, No.2/188, Vembulinayakkar Street, Karapakkam, Chennai-600 097.	v.	The ITO, Non-Corporate Ward-15(3), Chennai.
[PAN: CJKPR 3171 C]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. D. Anand, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R. Anita, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	01.08.2024
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 06.09.2023 for the Assessment Year (hereinafter in short "AY") 2017-18.



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**2.** At the outset, we note that there is a delay of '78' days in filing this appeal. Having gone through the contents of the application for condonation of delay, we are satisfied that there was sufficient cause for condoning the delay and so, we condone the delay and proceed to adjudicate the grounds of appeal of the assessee.

**3.** The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the addition of ₹13,67,312/- & ₹1,93,857/- u/s.69 of the Income Tax Act, 1961 (hereinafter in short "the Act")

**4.** The brief facts relevant to the case as noted by the AO are that the assessee had deposited a sum of ₹13,67,312/- by way of cash during demonetization period i.e. from 09.11.2016 to 31.12.2016 in the City Union Bank & Indian Bank. The AO noted that assessee didn't file return of income (RoI) for AY 2017-18, and hence he issued statutory notices to the assessee as well as to the banks calling for details of accounts held by the assessee in various banks. In response, the AO noted that the banks have given the following details for a period from 01.04.2014 to 31.03.2017 as under:

(a) City Union Bank(CUB) - Jewel Loan account No. 502112024471906

(b) City Union Bank(CUB) - Jewel Loan account No. 502112024471907

(c) City Union Bank(CUB) - Saving account No. 500101010658219

(d) Indian Bank (IB)- saving account No. 482816778



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Again vide letter dated 02.08.2019 and 13.08.2019 pay in slip of the cash deposit made during demonetization period and all the bank statement for the period from 01.04.2017 to till date was sought from the above mentioned banks. Details of the cash deposits/credits of the assessee relating to the financial year 2016-17, in accordance with the statements of account as detailed above, are tabulated as under:

Sr.No	Account Number	Cash deposits (In Rs.)	Other credits during the (in Rs.)		Total credit during FY 2016-17 (in Rs.)
		FY 2016-17	09/11/16 to 31/12/16	F.Y.2016-17	
1	502112024471906 CUB(Jewel Loan A/c)	3,01,553/-	2,90,953/-	-	3,01,553/-
2	502112024471907 CUB(Jewel Loan A/c)	8,72,359/-	8,41,359/-	-	8,72,359/-
3	CUB SB a/c 500101010658219	71,000/-	35,000/-	42,03,789/-	42,74,789/-
4	Indian Bank 482816778	2,00,000/-	2,00,000/-	2,468/-	2,02,468/-
	Total	14,44,912/-	13,67,312/-	42,06,257/-	56,51,169/-

**5.** The AO acknowledged that the assessee filed the return of income for AY 2017-18 on 13.08.2019 (*after issue of notice by the AO*) admitting income of ₹2,43,000/-. The AO noted that the total credits in the bank account during the year was to the tune of ₹56,51,169/-. Out of which, sum deposited by way of total-cash during the relevant year was to the tune of ₹14,44,912/- and out of this amount, an amount of ₹13,67,312/- was deposited during demonetization period. The AO also noted a relevant fact from the bank transactions (*supra*) that the assessee had obtained jewel loan from City Union Bank Ltd., Karpakkam Branch, on 03.05.2016 to the tune of ₹2,80,000/- and ₹8,10,000 (totaling ₹10,90,000/-); and the said amount was credited in his Savings Bank a/c with the same branch; and on the same day, the said amount



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(₹10,90,000/-) was withdrawn in cash (on 03.05.2016). And pursuant to AO's show cause notice asking for details (nature & source) of the cash deposits in his bank a/c [during demonetization period to the tune of ₹13,67,312/-] the assessee explained that he had availed jewel loan from City Union Bank on 03.05.2016 and received ₹10,90,000/- and which amount was withdrawn and kept ready for purchase of land, which event (purchase of land) unfortunately didn't materialize, and he kept it safely with him for investing in any other property, but in the meanwhile demonetization was declared on 08.11.2016, and so he deposited the same in his bank account on 10.11.2016 and redeemed his jewels [which were pledged with the Bank]. However, since, the assessee has deposited Specified Bank Notes (SBNs) after 08.11.2016, the AO added the same (₹13,67,312/-) u/s.69 of the Act.

**6.** Thereafter, the AO noted that the assessee had other credits of ₹42,83,857/- and he expressed his satisfaction regarding the nature & source of ₹40,90,000/-, and added the balance amount of ₹1,93,857/- as unexplained u/s.69 of the Act. Thus, he made total addition of ₹15,61,169/- u/s.69 of the Act.

**7.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A), who confirmed the action of the AO. So assessee is before us. The assessee submitted the details of source of deposit as under: -



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i) On 10.11.2016, assessee deposited Rs.8,41,359/- for retrieving the gold ornaments and the source of the same the jewel loan obtained on 03.05.2016 from City Union Bank Ltd., Karpakkam Branch, to the tune of Rs.8,10,000/-.

ii) On 10.11.2016, assessee deposited Rs.2,90,953/- in City Union Bank Ltd., Karpakkam Branch, which source the assessee explained to have obtained by jewel loan on 23.05.2016 to the tune of Rs.2,80,000/-.

**8.** We have heard both the parties and note that pursuant to the AO's notice to prove the nature & source of cash deposits during demonetization (SBNs) to the tune of ₹13,67,312/-, the assessee, brought to his notice that out of the total amount of ₹13,67,312/- deposited on 10.11.2016, the assessee stated the source of ₹10,90,000/- was from the jewel loan which assessee had obtained on 03.05.2016 by pledging gold ornaments; and that on 10.11.2016, the assessee after depositing ₹10,90,000/- has been able to retrieve his gold ornaments from City Union Bank, Karpakkam Branch, which facts we note are supported by relevant evidences; and since the assessee showed that the source of ₹10,90,000/- was money received by the assessee on pledging his gold from City Union Bank and the same was kept with him for some purpose, which didn't materialize, and the same has been deposited in the same bank, after declaration of demonetization of SBN's, to retrieve his pledged gold, the explanation cannot be simply disbelieved unless, the AO has evidence/material to show that ₹10,90,000/- has been invested somewhere else or assessee had some other undisclosed source of income. Having not able to controvert the evidence regarding the nature



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& source of ₹10,90,000/- this amount stands explained. And it is also noted that the assessee has filed return of income *albeit* belatedly showing ₹2,43,000/- which *inter-alia* included rental income. Thus, assessee had total amount of ₹13,33,000/- (₹10,90,000/- plus ₹2,43,000/-). Thus, balance amount to be explained is only ₹34,312/-, which according to Ld AR, was kept for any emergency purposes. Considering the overall facts, the assessee can't be presumed to have ₹34,312/- kept for emergency purposes. Therefore, the addition of ₹13,67,312/- was not warranted in the facts and circumstances of the case and therefore, we direct deletion of the same.

**9.** As regards addition of ₹1,93,857/-, the Ld.AR submitted that during assessment proceedings, the AO didn't seek any explanation about this amount and has arbitrarily added it, which action of the AO was against the principles of natural justice and pleaded for deletion of the same. In this regard, we note that the AO has passed order u/s.144 of the Act (best judgment assessment) and note that the AO has not called for details regarding this addition of ₹1,93,857/- and therefore, we set aside the impugned addition (₹1,93,857/-) confirmed by the Ld.CIT(A) and restore this issue back to the file of the JAO with a direction to call for explanation about this addition and verify the same and after hearing the assessee, pass order in accordance to law. Therefore, the issue of



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addition of ₹1,93,857/- is remitted back to the file of the JAO for fresh adjudication.

**10.** In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on the 09<sup>th</sup> day of October, 2024, in Chennai.

**Sd/-**  
(मनोज कुमार अग्रवाल)  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

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

चेन्नई/Chennai,  
दिनांक/Dated: 09<sup>th</sup> October, 2024.  
**TLN, Sr.PS**

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