

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.245/Chny/2024
निर्धारण वर्ष /Assessment Year: 2017-18

Ramesh Sreenivasalu,
26, Royal Garden,
Meyyanur Bye Pass Road,
Salem – 636 004.
[PAN: ACCPR 2306N]

Vs. The Dy. Commissioner of
Income Tax,
Circle-1(1),
Salem.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Kathir, Advocate
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 02.09.2024

घोषणा की तारीख /Date of Pronouncement

: 30.10.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2017-18 arises out of the order of Learned Commissioner of Income Tax, Appeal, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 11.01.2024 in the matter of assessment framed by the Assessing Officer [AO] u/s. 143(3) of the Income-tax Act, 1961 (hereinafter "the Act") on 21.12.2019.

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2. The effective ground of appeal in this appeal of assessee is against the order of Ld. CIT(A) in confirming the addition of cash deposit during demonetization period of Rs. 22,94,500/- and estimating further the income @ 8% of cash deposits in rest of the period.

3. The assessee is engaged in the business of supplying of Pepsi products like soft drinks, mineral water, confectionaries, etc. and also homemade snacks items to various petty shops in and around Salem on cash basis and has filed return of income declaring total income of Rs. 10,37,550/-. The assessee during demonetization period has made a cash deposit of Rs. 22,94,500/- in his saving bank account as under:

<i>Name of Bank</i>	<i>Account Number</i>	<i>Total cash deposit during other than the demonetization period</i>	<i>Demonetized currency deposited during the demonetization period.</i>
<i>Yes Bank</i>	<i>007963700000366</i>	<i>1,27,89,000/-</i>	<i>19,08,000/-</i>
<i>South Indian Bank</i>	<i>007963700000366</i>	<i>1,90,95,000/-</i>	<i>-</i>
<i>Indian Bank</i>	<i>939631281</i>	<i>28,14,500/-</i>	<i>3,86,500/-</i>
<i>Total</i>		<i>3,46,98,500/-</i>	<i>22,94,500/-</i>

4. The A.O held the cash deposited as unaccounted income and added u/s. 69 of the Act. The A.O has also estimated the income @8% of total cash deposit in other than demonetization period at Rs. 44,27,718/- and thus making further addition of Rs. 3,54,217/-. The Ld. CIT(A) has confirmed the addition as the assessee has not filed any documentary evidence/explanation regarding the cash deposit.

5. The Ld. Authorized Representative (A.R) of the assessee before us has submitted a copy of agreement between assessee and PepsiCo India Holdings Pvt. Ltd. and also submitted that profit and loss account and balance sheet in support of his contention that the cash deposit was out of sale made . The Ld. AR however admitted that evidences could not be produced before the lower authorities and one more opportunity be provided to prove his case , in the interest of justice.

6. The Ld. Departmental Representative (DR), on the other hand, has relied on the orders of lower authorities and argued that order of LD CIT(A) be upheld.

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7. We have heard the rival submissions, and perused the materials available on record. The assessee did not provide essential documents to substantiate his claim before both the AO and the Ld CIT(A). This non compliance has resulted in unnecessary delay and inconvenience not only to the department but also in terms of judicial resources, The assessee has failed to provide a reasonable cause for such omission. Therefore in the interest of justice and to provide the assessee with one final opportunity to present his case, the matter is remanded back to the AO. The AO shall conduct a fresh assessment after allowing assessee an opportunity to submit relevant documents. However, considering the assessee's failure to provide necessary documentation at the initial stages, we find appropriate to impose cost. Accordingly, the assessee is directed to pay the costs of Rs.20,000/-. The same shall be paid by the assessee to Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within a period of one month from the date of receipt of this order and produce the receipt before the A.O. We also direct the assessee to appear before the A.O. on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 30th October, 2024.

Sd/-
(एबी टी. वर्की)
(ABY. T. Varkey)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / **Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 30th October, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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