

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI
BEFORE MS. KAVITHA RAJAGOPAL, JM AND SHRI GAGAN GOYAL, AM

ITA No. 846/Mum/2024
(Assessment Year: 2017-18)

Mahesh Kumar Prasad B2-21 Anunagar CHS Ltd., Kavesar Waghbil Road, PO Kasarvadavli, Nr. Vijay Nagri Annex Thane- 400 615	Vs.	ITO, Ward 1(5) Thane
PAN/GIR No. AGFPP 5558 D		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Mandar Vaidya
Respondent by	:	Ms. Rajni Rani Roy
Date of Hearing	:	30.10.2024
Date of Pronouncement	:	30.10.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2017-18.

2. The assessee has raised the following grounds of appeal:

1. *Ld. CIT appeal had ignored the fact that appellant used to withdraw cash of Rs.70,000 to Rs.80,000/- per month on a average basic and given the same to appellant wife and children’s for their expenses and saving purpose without any specific reason only in the name of appellant loved one.*
- 2) *Ld. CIT appeal had ignored the fact that assessing officer has taxed the PIN money provided to wife and taxed twice same income and have done double jeopardy.*
3. *ld. CIT appeal had ignored the fact that in Indian culture where person earning in government job human probability test is not application here Indian culture where wife’s intention is to save pin money for future education medical or marriage purposes kept the money without knowledge of husband and due to demonetization they were forced to deposit.*

3. Brief facts of the case are that the assessee is an individual who is Ex-Navy Defense person and had filed his return of income declaring total income at Rs.15,35,090/- for the year under consideration out of income from salary. The assessee’s

case was selected for scrutiny and notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The learned Assessing Officer ('Id. A.O.' for short) observed that the assessee has made cash deposit of Rs.13,55,000/- during demonetization period and had sought for the details pertaining to the said transaction. The Id. A.O. then passed the assessment order u/s. 143(3) of the Act on 25.12.2019, declaring total income at Rs.28,90,090/-, after making an addition of Rs.13,55,000/- as 'unexplained income' u/s.69A of the Act for the reason that the assessee had failed to substantiate the said transaction with cogent evidence.

4. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The Id. CIT(A) vide order dated 27.12.2023, had partly allowed the appeal filed by the assessee by restricting the addition to Rs.9,55,000/-, after duly considering the assessee's submission.

6. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before the first appellate authority who had partly allowed the appeal of the assessee by restricting the addition to Rs.9,55,000/-.

8. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee was unable to furnish the documentary evidence such as the bank account of the assessee before the lower authorities to substantiate the assessee's

claim. The ld. AR further contended that the said evidence is very crucial for deciding the issue in hand to establish the fact that the assessee has been consistently withdrawing cash over a period of time which was the source of the cash deposit made during demonetization period.

9. The learned Departmental Representative (ld. DR for short) opposed to the admission of the additional evidence for the reason that the assessee ought to have furnished his bank statement before the lower authorities which was very much in his possession. The ld. DR relied on the order of the ld. A.O.

10. In the above factual matrix of the case, it is evident that the only issue pertaining to the said appeal is the source of cash deposits made by the assessee in his bank account during demonetization period. The assessee's contention was that the source of the said money was out of accumulation over a period of time, where the assessee has been consistently withdrawing cash from his savings account. The assessee in his Affidavit dated 29.10.2024 has stated that he was under the bona fide belief that the bank account statements would be available with the Income Tax Department, which could have explained the source of the said deposit. As the same was not available with the lower authorities, the assessee had filed his savings bank account statement as additional evidence under Rule 29 of the Income Tax Appellate Tribunal Rules. We, therefore, are of the considered view that as the bank statements are the very basis of this issue, we deem it fit to admit the same and remand this issue back to the file of the ld. A.O. for verifying the same. The ld. A.O. is directed to consider the documentary evidence filed by the assessee and also admit any further evidences if required, from the assessee and

decide the issue on the merits and in accordance with law. We, therefore, remand the matter to the file of the Id. A.O. for *de nova* assessment and direct the assessee to cooperative in the proceeding before the A.O. without any delay on his side.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 30.10.2024.

Sd/-
(Gagan Goyal)
Accountant Member

Sd/-
(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated :30.10.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai