

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

ITA No.1350/Bang/2024
Assessment Year : 2017-18

Late Shri. Kondajji Shivappa Surendrappa, L/R By Smt. K. S. Vasanthama, Devraurs Layout Post, Davangere – 577 006. PAN : CYPPS 9554 L	Vs.	ITO, Ward – 5, Davangere.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaiana Bhatia, CA
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	23.10.2024
Date of Pronouncement	:	24.10.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against the CIT(A)'s Order dated 17.06.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. The solitary issue that is raised is whether CIT(A) has erred in confirming 50% of the addition of Rs.15,41,000/- made by the AO by treating the cash deposits in bank account as unexplained income under section 69A of the Act.

3. Brief facts of the case are as follows:

Assessee, an individual, did not file the return of income for the Assessment Year 2017-18. It was noticed that the assessee had made cash deposit of Rs.15,41,000/- during the demonetization period. Assessee was directed to explain the source of cash deposit. Assessee vide letter dated 03.09.2019 furnished the source of cash deposit. It was stated that assessee was having 4.34 acres of land and was doing agricultural operation for past 40 years. It was submitted that out of 4.34 acres of land, assessee had sold 2 acres of land for a consideration of Rs.11,16,000/- and same was also available for making the cash deposit. It was submitted that assessee had kept cash in hand out of agricultural receipts and sale proceeds of land in order to meet his medical expenses and also for incurring the marriage expenditure of his daughter. Assessee had also filed a cash flow statement. However, the explanation offered by the assessee was rejected by the AO and he brought to tax the entire cash deposit of Rs.15,41,000/- under section 69A of the Act. The AO also applied special rate of taxation at 60% by invoking the provisions of section 115BBE of the Act.

4. Aggrieved by the assessment completed, assessee filed appeal before the First Appellate Authority. The CIT(A) partly allowed the appeal of the assessee by reducing 50% of the addition made by the AO. The relevant finding of the CIT(A) reads as follows:

“7. On perusal of the submissions filed by the appellant during the appeal proceedings, it is observed that the appellant owned 4 acres of land out of which he sold 2 acres of agricultural land. Further the appellant also contended that he had required cash for his medical expenses, therefore keeping in view the totality of the situation and in the fitness of things, it would be reasonable to allow relief of 50% of cash deposited during demonetization being explained especially keeping in view the facts mentioned and hence the AO is directed to give relief of 50% the appellant on account of addition made towards unexplained cash deposits of Rs 15,41,000/- made during the demonetization period.

8. *In the result, the appeal is partly allowed.”*

5. Aggrieved by the Order passed by the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has filed a Paper Book comprising of 96 pages enclosing therein the written submissions filed before CIT(A), the notices issued during the course of proceedings before the AO and the CIT(A), copy of the sale deed for the sale of agricultural land, cash flow statement for the year ending 31.03.2015 to 31.03.2017, the case laws relied on, etc.

6. The learned AR submitted that assessee was an aged person and expired. It was submitted that assessee is represented before the Tribunal by his wife as a legal heir. It was submitted that assessee was having prolonged illness and for meeting the medical expenses, the agricultural receipt as well as the receipts on sale of agricultural land were kept with him in cash in order to meet medical emergencies. Therefore, it was submitted that the sustenance of addition by the CIT(A) is wrong and the entire addition under section 69A of the Act needs to be deleted.

7. The learned Standing Counsel supported the Order of the of the CIT(A).

8. I have heard the rival submissions and perused the material on record. Assessee was having prolonged illness and had expired. The late assessee is represented before the Tribunal by his wife as his legal heir. Assessee was having 4.34 acres of land in which he was doing agricultural operation. Out of 4.34 acres of land, assessee had also sold out 2 acres of land. Assessee was having medical emergency and had to retain the agricultural receipt in cash. Assessee had also sold agricultural land which was also retained by him in cash. On the facts of the instant case, I am of the view that the sustenance of addition by the CIT(A) of 50% of Rs.15,41,000/- is not justified. In the interest of justice and equity, I sustain the addition of Rs.2 lakhs which would meet the ends of justice and the balance is deleted. It is ordered accordingly.

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

Pronounced in the open court on the date mentioned on the caption page.

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: .10.2024.

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.