

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

महनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
महनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1349/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

Mr. Rahimathulla Abdul Rahman 68/47C, Vakil Kitta Musthafa Street Pudupet, Attur-636 141.	बनम/ Vs.	ITO Ward-1(9), Salem.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. ACTPR-3061-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri S. Sridhar (Advocate) - Ld. AR (Erode)
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Ashwin D Gowda (Addl.CIT) - Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	23-10-2024
घोषणा की तारीख / Date of Pronouncement	:	05-11-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of an order passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 13-03-2024 in the matter of an assessment framed by the Ld. AO on *best judgment basis* u/s 144 of the Act on 02-12-2019. In the assessment order, Ld. AO estimated business income @8% which came to Rs.9.58 Lacs and also made addition of cash deposits for Rs.10.18

Lacs. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us.

2. The Ld. AR advanced arguments and submitted that the only source of cash deposits was business receipts and therefore, income was to be estimated on a reasonable basis. The Ld. Sr. DR supported the orders of lower authorities. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

3. The assessee being resident individual is stated to be engaged in trading of iron and steel. The assessee did not file return of income. Pursuant to information that the assessee deposited cash in Specified Bank Notes (SBNs), the case was scrutinized. It transpired that the assessee had Bank credit of Rs.129.98 Lacs out of which cash deposited during demonetization period was Rs.10.18 Lacs. The remaining amount of Rs.119.80 Lacs was considered to be the sales turnover of the assessee and accordingly, the same was assessed u/s 44AD @8%. The amount of Rs.10.18 Lacs was held to be unexplained money and fully added to the income of the assessee. The Ld. CIT(A) confirmed the same except for granting a relief of Rs.2.50 Lacs from demonetization cash as deposited by the assessee. Aggrieved, the assessee is in further appeal before us.

4. From the facts, it is clear that the assessee has carried out trading activity. The business receipts have been deposited into the bank account. The assessee has not maintained any books of accounts. In such a case, the presumptive provisions of Sec.44AD have correctly been applied by Ld. AO. However, the artificial distinction as created by Ld. AO between business receipts is without any basis. The only source of cash deposits is business receipts only. Considering the same, we

direct Ld. AO to consider the entire credit of Rs.1,29,98,619/- as business receipts only. The income on the same shall be estimated @8% which comes to Rs.10,39,890/-. We order so.

5. The appeal stands partly allowed.

Order pronounced on 5th November, 2024

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 05-11-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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