

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

Before SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No.826/Coch/2023
Assessment Year - 2017-2018

Subair Kunnath, Kunnath Aaderi Arikulam, KOYILANDI PIN - 673 326 KERALA. PAN DCYPS7474D	vs.	Income Tax Officer, Ward-2(2), KOZHIKODE. KERALA.
(Appellant)		(Respondent)

Assessee by :	-None-
Revenue by :	Smt. V. Swarnalatha, Sr. DR

Date of Hearing :	16.08.2024
Date of Pronouncement :	07.11.2024

ORDER

PER BENCH :

This assessee's appeal, for the assessment year 2017-2018, arise against the order of the learned CIT(A)-NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1056292382(1) dated 20.09.2023, in proceedings u/s.271AAC of the Income-tax Act, 1961; in short "the Act".

Case called twice. None appeared at assessee's behest. He is accordingly proceeded ex-parte.

2. We find during the course of hearing with the valuable assistance coming from the Revenue side that both the learned lower authorities have imposed sec.271AAAC(1) penalty of Rs.1,47,000/- @ 10% of the tax(s) payable u/sec.115BBE(1)(i) of Rs.14,70,000/- *qua* his cash deposits of Rs.24.50 lakhs made during demonetization.

3. Smt. Swarnalatha, learned DR has vehemently supports the impugned penalty levied in assessee's hands.

4. We find in this peculiar backdrop that even the learned CIT(A)-NFAC is indeed very fair in making it clear in para(s) 6.4 to 6.5 pages 5 and 6 that the assessee had indeed withdrawn cash from his Axis Bank NRE account in the month of June and July 2016 which followed alleged re-deposits after four to five months thereof during demonetization in November, 2016. We invited the Revenue's attention to the impugned lower appellate discussion to this effect which sufficiently prove that it is not an instance of the

assessee having failed to attribute source of his cash deposits in entirety since his endeavour to treat his withdrawals as re-deposits herein, only has been rejected. Faced with this situation, we conclude that the impugned sec.271AAC(1) penalty of Rs.1,47,000/- deserves to be deleted. Ordered accordingly.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on this 7th day of November, 2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Cochin ; Dated : 7th November, 2024.

VBP/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT Concerned.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin