

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "SMC" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.1245/Mum/2024
Assessment Year : 2017-18

Nisha Prakash Tejawat, H.No. 401, F.No. 602, 6 th Floor, Mahavir Palace, Khadak Road, Bhagwan Mahavir Marg, Bhiwandi, Maharashtra. PAN : ACSPJ9257A	vs.	Income Tax Officer, Ward-1(3), 2 nd Floor, Rani Mansion, Kalyan-Murbad Road above Canara Bank, Syndicate, Kalyan
(Appellant)		(Respondent)

Assessee by : Shri Sanjiv Brahme
Revenue by : Shri Umesh Chandra Sinha
Date of Hearing : 13/11/2024
Date of Pronouncement : 21/11/2024

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dt.22-01-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’] and it relates to AY. 2017-18. The assessee is aggrieved by the decision of the Ld.CIT(A) in confirming the addition of Rs.14.41 lakhs relating to bank deposits as un-explained income of the assessee u/s. 69A of the Income Tax Act, 1961 (‘the Act’).

2. The assessee is an individual and she derives rental income and interest income. It was noticed that the assessee has deposited cash of Rs.17,40,000/- in specified bank notes during the demonetization period. When questioned about the same, the assessee submitted that

the deposits were made out of her savings made over the years. The assessee also furnished cash flow statements for the year relating to the AYs. 2015-16 and 2016-17 to substantiate the availability of cash. The AO did not accept the explanations given by the assessee. He considered only the income earned by the assessee from 01-04-2016 to 08-11-2016 as sources for making the impugned deposit. Accordingly, the AO gave credit of Rs. 2,98,250/- only and added the balance amount of deposit of Rs. 14,41,750/- as un-explained money u/s.69A of the Act. The Ld.CIT(A) also confirmed the same.

3. We heard the parties and perused the record. The Ld.AR submitted that the assessee has maintained cash books and the impugned deposits have been made out of cash balance available in the books with the assessee. The Ld.AR submitted that the cash book relating to the AYs. 2015-16 and 2016-17 were produced before the AO. He submitted that the assessee has also furnished condensed cash flow statement of FY. 2014-15 and 2015-16 and 01-04-2016 to 08-11-2016 before the AO. Inviting to the cash flow statements placed at pg. No. 41 of Paper Book, the Ld.AR submitted that the assessee has drawn a sum of Rs. 13,30,000/- for renovation of her property during the FY. 2015-16 and accordingly submitted that the assessee would not have shown such a huge amount as drawings, had she intended to cook up sources for the deposits made during demonetization period. The Ld.AR further submitted that the assessee has been regularly withdrawing cash from banks in the earlier years also and the cash balance was kept in hand in order to meet emergency requirements. The Ld.AR also submitted that the assessee has been maintaining cash book in the past years also. Accordingly he submitted that there is no reason to suspect the cash flow statements and other explanations given by the assessee. Accordingly, he prayed that the impugned addition be deleted.

4. The Ld.DR, on the contrary, supported the orders passed by the tax authorities.

5. We heard the parties and perused the record. We are of the view that there is merit in the submissions made by the assessee. We notice that the assessee has been maintaining cash books and the impugned cash deposits have been made out of cash balance available with the assessee. We also notice that the assessee has been earning income by way of rent and interest. For the year under consideration, the assessee has declared total income of Rs. 11.34 lakhs. When considering the quantum of income declared by the assessee, in our view the availability of cash balance of Rs.14.00 lakhs with the assessee should not have been suspected. Hence, on a consideration of quantum of income available with the assessee and also considering the fact that the assessee has been regularly maintaining cash book, we are of the view that there is no reason to suspect the availability of cash with the assessee. Accordingly, we are of the view that the impugned deposits have been made out of the cash balance available with the assessee, meaning thereby, the sources of making deposits would stand explained. Accordingly, we set aside the order of the Ld.CIT(A) and direct the AO to delete the addition.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 21-11-2024

Sd/-
[RAJ KUMAR CHAUHAN]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai, Dated: 21-11-2024

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "SMC" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai