

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

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

आयकरअपील सं./ ITA No.1259/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Natarajan Sudhakar,
66-83, Thirumala Elite,
Angammal
Colony Main Road,
Salem 636 009.

Vs. The Income Tax Officer,
Ward 1(2)
Salem

[PAN: AGUPS 1512M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. S. Sridhar, Advocate (Erode)

प्रत्यर्थी की ओर से /Respondent by

: Ms R. Anita, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 12.09.2024

घोषणा की तारीख /Date of Pronouncement

: 27.11.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is directed against the order No.ITBA/NFAC/S/250/2023-2024/1062618166 (1) dated 14.03.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi. The assessment was framed by the Income Tax Officer, Ward 1(2), Salem for the assessment year 2017-18 passed u/s.144 of

the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 28.10.2019

2. Brief facts of the case are that the Id. Assessing Officer had received information that the assessee has deposited huge cash in the bank account during the demonetization period. On examination of the database related to the assessee, the AO noticed that the assessee had not filed any return of income for the A.Y.s 2015-16, 2016-17 and 2017-18. During the assessment proceedings, the assessee was asked to explain the reasons for not filing returns of income. In response, the authorized representative of the assessee stated that, due to his preoccupations with the family affairs he could not prepare and file his return of income for the A.Ys 2015-16, 2016-17 and 2017-18 in time. As the present scheme of Income Tax Act is not allowing assessee to file the returns belatedly he could not file his return of income belatedly. As regards, the source of cash deposited in the bank account during demonetization period, the assessee inter-alia had submitted as under: -

Sl.No	Nature of Sources	Amount
1	Op. Cash Balance (1.04.2016)	1,36,538
2	Rentals received	2,82,000
3	Sale of gold jewellery	6,85,984
4	Cash Withdrawals from TMB-SB a/c. 028100050046320	5,38,300
5	Coriander Processing Job works	1,74,000
6	Gift from mother in law	1,20,000
7	Income tr. from HUF u/s 10(2)	1,00,000
	Total	20,36,822

The Id. Assessing Officer found that assessee maintained two account bearing numbers 028100050080118 and 0371500508000275 with Tamil Nadu Mercantile Bank, during the period from 01.04.2016 to 31.03.2017. The details of deposits for the period from 01.04.2016 to 31.03.2017 in the bank accounts were summarized as under.

Sl.No	Account No.	Total cash & Other credits other than demonetization period	Cash deposit during demonetization
1	028100050080118 (SB Account)	3,29,059/-	2,00,000/-
2	0371500508000275 (Current Account)	2,06,06,303/-	11,63,500/-
	Total	2,09,35,362/-	13,63,500/-

Since the assessee did not render any explanation for the above transactions of Rs.2,09,35,362/- i.e., the cash and other transactions related to the period other than demonetization period, the Id. Assessing Officer assessed the same on presumptive basis at the rate of 8% and estimated income of Rs.16,74,829/-. However, the entire cash deposit during demonetization period was added as unexplained investments u/s.69A of the Act which would be taxed at the rates specified u/s.115BBE of the Act. Finally, the assessment was framed. Aggrieved, assessee preferred an appeal before the Id. Commissioner of Income Tax (Appeals).

3. The Id. CIT(A) confirmed the addition of Rs.13,63,500/-, being cash deposited during demonetization period.

4. On estimate addition, the assessee argued before Id. CIT(A) that Id. Assessing Officer had estimated the business income @8% of total cash of Rs.2,09,35,362/- deposited during the period, whereas all the major transactions were related to the assessee's current account and same were received on transfer through banking channels and subsequently transferred to other concerns and accordingly, prayed for deletion of addition. The Id. CIT(A) vide letter dated 12.09.2019 requested the assessee to explain the cash and other banking transactions during the period from 01.04.2016 to 31.03.2017 which assessee failed to do so. In the absence of any credible supporting documentary evidences forthcoming from the assessee, the Id. CIT(A) estimated the business income @5% of the total cash deposit of Rs.2,09,35,362/- as against estimation of 8% as made by Ld. AO. Aggrieved, the assessee is in further appeal before us.

5. It is clear that the assessee is unable to adduce any records to substantiate the source of cash deposit. Considering the conduct of the assessee, Ld. AO estimated business income of 8% against normal deposits which was reduced to 5% by Ld. CIT(A). This estimation, in our considered opinion, is quite reasonable and the same, therefore, would not require any interference on our part. At the same time, artificial distinction created in deposits made during demonetization period is not correct. The transactions have happened throughout the year and the nature of transaction is similar. Therefore, similar estimation could be made against demonetization deposit of Rs.13,63,500/-. The Ld. AO is directed to adopt similar

estimation of 5% against these deposits. No other ground has been urged in the appeal.

6. The appeal stand partly allowed.

Order pronounced on 27th day of November, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated : 27-11-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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