

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
Before Shri S.S. Viswanethra Ravi, Judicial Member &  
Shri Amitabh Shukla, Accountant Member

आयकर अपील सं./I.T.A. No.2435/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2017-18

Venkateshbabu Thogarapalli  
Nandakumar, No. 8, Krishnappa  
Layout Cooperative Colony,  
Krishnagiri 635 001.

Vs. The Income Tax Officer,  
Ward 1,  
Krishnagiri.

**[PAN: ALRPV8058P]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T.S. Lakshmi Venkataraman, FCA  
प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anita, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 21.11.2024  
घोषणा की तारीख /Date of Pronouncement : 27.11.2024

**आदेश / O R D E R**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order dated 30.08.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2017-18 challenging exparte order of the Id. CIT(A).

2. At the outset, we note that the Assessing Officer received information that the assessee had deposited cash in the bank accounts during demonetization period, the details of said bank deposits are

reflected in para 5 of the assessment order. According to the Assessing Officer, the total credit as per bank account maintained with Axis Bank is ₹.56,30,068/- against which the total cash deposits during demonetization period [09.11.2016 to 31.12.2016] is ₹.10,00,000/-. Against the show-cause notice, the assessee has submitted registered agreement before the Assessing Officer for purchase of property with A. Shamshinnisa, wife of Mohammed Akbar. The assessee also submitted cancellation of said agreement which was registered on 22.11.2016 and thus, Mrs. A. Shamshinnisa deposited ₹.10,00,000/- in assessee's Axis Bank account on 15.11.2016. The Assessing Officer did not accept the above submissions and brought to tax. Since the assessee could not file his return of income on or before 31.03.2018, the Assessing Officer treated the return filed by the assessee on 13.10.2019 as non-est return and invalid and brought to tax the entire credit found in the bank account of the assessee at ₹.56,30,068/- as unexplained income of the assessee under section 69 of the Income Tax Act, 1961 ["Act" in short]. The Id. CIT(A) confirmed the same.

3. The Id. AR Shri T.S. Lakshmi Venkataraman, FCA argued that the Assessing Officer ought to have taken cognizance of the return of income filed by the assessee on 13.10.2019 before the completion of

assessment on 02.12.2019. He further submits that due to the circumstances beyond his control, the assessee could not file explanation/documentary evidence in support of his claim before the Id. CIT(A). The Id. AR further argued that the Assessing Officer should have adopted percentage theory in framing the assessment and prayed to afford an opportunity to the assessee

4. The Id. DR Ms. R. Anita, Addl. CIT opposed the same and drew our attention to page 4 of the impugned order and argues that the Id. CIT(A) has given ample of opportunities to the assessee, but, the assessee failed to upload his explanation substantiate his claims.

5. After hearing both the parties, we find the Assessing Officer made addition of entire credit found in assessee's bank account as unexplained investment under section 69 of the Act. Before us, the Id. AR has contended that the Assessing Officer should have applied "percentage" concept in framing the assessment, when the Assessing Officer obtained details from the Axis Bank under section 133(6) of the Act. We find force in the argument of the Id. AR to adopt the percentage method as the same was pleaded before the Id. CIT(A) vide para 4.2 of the impugned order. Accordingly, we set aside the

order of the Id. CIT(A) and remand the matter back to the file of the Assessing Officer with a direction to adopt percentage method and complete the assessment in adopting 15% of the deposits in bank account as income of the assessee. Thus, grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 27<sup>th</sup> November, 2024 at Chennai.

Sd/-  
(AMITABH SHUKLA)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Chennai, Dated, 27.11.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.