



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT
MEMBER AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1679/PUN/2024

निर्धारण वर्ष / Assessment Year: 2017-18

Amol Prataprao Chavan, Patil Chowk, Daphalapur Jath, Sangli – 416402. PAN: AMYPC0887B	V s	The Income Tax Officer, Ward-2, Sangli.
Appellant/ Assessee		Respondent / Revenue

Assessee by	None.
Revenue by	Shri Manoj Tripathi – DR
Date of hearing	27/11/2024
Date of pronouncement	28/11/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee against the order of
ld.Commissioner of Income Tax(Appeals)[NFAC] for Assessment
Year 2017-18 dated 28.03.2024 passed u/sec.250 of the Income tax
Act, 1961. The Assessee has raised the following grounds of
appeal :

“1) *Ground No.1*

*On the facts and circumstances of the case and in Law, the Ld.AO
erred in making addition to total income of Rs.16,54,000/- U/s 68*



without considering facts and circumstances of the case.

1.1) The assessee AMOL PRATAPRAO CHAVAN is an individual was engaged in the business as " Business correspondent Agent " he was appointed to facilitate bank customers on behalf of bank. He was authorised to accept cash on behalf of bank as well as he was also authorised to give withdrawals to customers of bank. For doing this activity Bank has allotted him separate bank account. His bank account having account No. 60255628482 of bank of Maharashtra was that special purpose bank account . learned AO considered entire deposit of Rs. 16,54,000/- in that bank account as unexplained cash credit U/s 68 .

Prayer

The Assessee prays that learned AO made an addition on vague assumption without considering the nature of business of the assessee, hence The order passed needs to be quashed.”

Submission of Id.AR :

2. At the outset of hearing, no one appeared on behalf of the assessee. Even on 08.10.2024, 12.11.2024, no one appeared on behalf of the assessee. However, in the statement enclosed with the appeal memo, assessee has stated as under :

“1.1) The assessee AMOL PRATAPRAO CHAVAN is an individual was engaged in the business as " Business correspondent Agent " he was appointed to facilitate bank customers on behalf of bank. He was authorised to accept cash on behalf of bank as well as he was also authorised to give withdrawals to customers of bank. For doing this activity Bank has allotted him separate bank account. His bank account having account No. 60255628482 of bank of Maharashtra



was that special purpose bank account . learned AO considered entire deposit of Rs. 16,54,000/- in that bank account as unexplained cash credit U/s 68 .

Prayer

The Assessee prays that learned AO made an addition on vague assumption without considering the nature of business of the assessee, hence The order passed needs to be quashed.”

2.1 It is also observed that assessee has enclosed copy of letter issued by Mahabank Agricultural Research & Rural Dev. Foundation(MARDEF), Pune appointing assessee as Collection Agent. Assessee has also filed copy of Letter issued by Bank of Maharashtra vide no.AV-24/Branch/Sankpal/2019-20 dated 15.07.2019 stating as under :



<p>बँक ऑफ महाराष्ट्र Bank of Maharashtra एक परिवार एक बँक</p>	<p>शाखा Dafalapur Branch Dafalapur टेलीफोन/TELE : 02344-282040 ई/मेल e-mail : brmgr595@mahabank.co.in</p>	<p>फ्रेश मार्केट की शक्ति सामग्र्यता अधिष्ठाता की संरक्षणता हेतु हम प्रतिबद्ध हैं</p>
	<p>प्रधान कार्यालय: लोकमंगल, 1501, शिवाजीनगर, पुणे Head Office: LOKMANGAL 1501.SHIVAJINAGAR PUNE-5</p>	

AV-24/Branch/Sankpal/ 2019-20 Date-15/07/2019

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Shri Amol Prataprao Chavan is working as BC (Business Correspondent) agent of Dafalapur branch since 16th June 2016. His official ID no. is 14440872, and his whole concern business related transaction is done via officially allotted account no. 60255628482 from 16/06/2016 to till date.

Therefore, this is to confirm that he is engaged as BC of our bank with Dafalapur branch as a base branch.

This letter is issued at the request of the agent.

Branch Manager
Dafalapur Branch

Submission of Id.DR :

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of the Assessing Officer and ld.CIT(A).

Findings & Analysis :

4. We have heard both the parties and perused the records.

4.1 In this case, assessee has filed Return of Income electronically declaring total income of Rs.2,35,650/-. The Assessee's case was selected for scrutiny on account of large cash deposits. The AO in the assessment order held as under :



“Further, it is noticed that the assessee has deposited an amount of **Rs.16,54,000/-** has been credited in A/c No. 60255628482 in Bank of Maharashtra, Branch-Dafalapur. However, as the assessee has not explained the sources of cash deposits in this account even after affording ample opportunity, the same is treated as unexplained cash credits u/s.68 of Income Tax Act, 1961 and accordingly, addition of **Rs.16,54,000/-**. Since income of the assessee determined includes income u/s.68, **penalty proceedings u/s.271AAC are initiated separately.**

Subject to above remarks, total income of the assessee is computed as under :-

Total income as per return of income dtd. 24-03-2018	Rs.2,35,650/-
Add: Addition on a/c of unexplained cash credits u/s. 68	Rs.16,54,000/-
Total Income	<u>Rs. 18,89,650/-</u>

Assessed u/s.144 of I.T.Act, 1961. Charge interest u/s.234A, 234B, 234C & 234D as applicable. Issue show cause notice for penalty u/s.271AAC. Issue demand notice after due verification of prepaid taxes.”

4.2 Aggrieved by the assessment order, assessee filed appeal before the Id.CIT(A). In the Form No.35 filed by the assessee with the Id.CIT(A), assessee claimed as under :

“The assessee engaged in the business of commission agent working for bank of Maharashtra. Assessee working as a business correspondence agent with bank of Maharashtra branch Dafalapur and have business correspondence agent letter. He produced all the documents to the income tax officer for the notice of cash deposit in the demonetization period but he does not take the acknowledgement of the same in that time. In mean time the officer was changed and new officer passed this order for tax. Cash deposit made at the time of demonetisation in his bank account is only for the bank customers. Bank of Maharashtra branch Dafalapur also certify that transactions made in the period of demonetization via officially allotted account. So the cash collected from bank of Maharashtra customer is transferred to their bank account with bank of Maharashtra. This cash deposit is not the assessee’s income”



5. Assessee also filed copy of letter dated 15.07.2019 issued by Bank of Maharashtra which we have already reproduced, copy of engagement letter dated 16.06.2016 issued by Mahabank Agricultural Research & Rural Dev. Foundation(MARDEF), Pune. In the said letter, nature of work of the assessee is specified as under :

- ✓ *Enrolment of villager / resident for opening of bank account with Biometric authentication.*
- ✓ *Performing the transactions of customers at their doorstep as per the guidelines issued.*
- ✓ *Enrolment of villager / resident for opening of Recurring Deposit as well as Term Deposit accounts.*
- ✓ *Collection of Aadhaar number with photo copies after verification of original and handing it over to branch for seeding the same to the account.*
- ✓ *Disbursal of small value credit through in-built overdraft facility & recovery thereof.*
- ✓ *Recovery of principal / collection of interest in existing loan accounts entrusted by the Branch Manager.*
- ✓ *Acknowledgement for collected cash by issuance of receipt generated from PoS / Hand Held Device (HHD) and it is duly signed by BC, on behalf of Bank.*
- ✓ *Sale of micro insurance / mutual fund / pension products / other third party products.*
- ✓ *Receipt and delivery of small value remittances / other payment instruments, (At one time withdrawal amount should be limited to Rs*



20,000 per account with and receipt should be maximum Rs 49,999/- per day per account in any single account).

- ✓ *Interbank and Intra Bank Remittances subject to the maximum of Rs. 49,999/- per transaction.*
- ✓ *Fulfillment of requests of customers for account statement, updation of passbook if requested by customer.*
- ✓ *Identification of borrowers for lending to different activities.*
- ✓ *Collection and preliminary processing of loan applications including verification of primary information / data.*
- ✓ *Creating awareness amongst the customer / villagers about savings and other products and education and advice on managing money and debt counseling.*
- ✓ *Completing of loan applications and submission of the same to branches.*
- ✓ *Promotion and nurturing Self Help Groups / Joint Liability Groups.*
- ✓ *Post-sanction monitoring including a close watch on end use of funds.*
- ✓ *Monitoring and handholding of Self Help Groups / Joint Liability Groups / Credit Groups / others.*
- ✓ *Follow-up for recovery in general and NPA recovery in particular in the accounts entrusted by banks,*
- ✓ *Any other service on behalf of the Bank, duly authorized by the appropriate authority.*
- ✓ *You should not take any charges from customer for providing services to the customer. All services are free.*
- ✓ *You should maintain physical registers for the daily transaction performed and this registers should be made available to Inspection authority for verification.*



6. In spite of filing all these details before the Id.CIT(A), Id.CIT(A) has erred in not discussing these documents. Ld.CIT(A) in para 6.2 of the order observed that assessee was not authorised to collect cash in Demonetized Currency during the Demonetization Period and confirmed the addition. However, on perusal of the assessment order, nowhere Assessing Officer has observed that amount of Rs.16,54,000/- was in the form of Demonetized Currency. As per the assessment order, AO has not called for the details from the bank to verify whether these amounts were Demonetized Currency or not! CBDT vide instruction dated 31.03.2017 and 21.02.2017 has specifically directed Assessing Officer to collect said information from bank. We are unable to understand from the Id.CIT(A)'s order that how he has arrived at the conclusion that Rs.16,54,000/- was in the form of Demonetized Currency. Neither the Id.CIT(A), nor the Assessing Officer has verified from the Bank of Maharashtra whether assessee was permitted to collect Demonetized Currency from the customers or not! Before the Id.CIT(A), assessee claimed that he had filed all the details regarding cash deposits but meanwhile officer changed and the changed officer passed order without considering details. This fact has not been verified by the



ld.CIT(A). In these facts and circumstances of the case, we deem it appropriate to set-aside the issue to Assessing Officer for denovo adjudication. The Assessing Officer shall provide opportunity of hearing to the assessee. The assessee shall provide the necessary documents before the Assessing Officer. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 28th November, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 28th Nov, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.