

**THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI SOUNDARAJAN K, JUDICIAL MEMBER**

ITA No.908/Bang/2024
Assessment Year : 2017-18

Babu Sahab, Deogiri Post Sandur Tq, Bellary Dist. – 583 112. PAN : AQQPS 2313 J	Vs.	The Income Tax Officer, Ward –2, Hosapete.
APPELLANT		RESPONDENT

Respondent by	:	Shri. Shiv Prasad Reddy, AR
Appellant by	:	Shri. Ganesh R Ghale, Advocate, Standing Counsel for Revenue.

Date of hearing	:	20.11.2024
Date of Pronouncement	:	28.11.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the Order of the National Faceless Appeal Centre (NFAC) [DIN and Order No.ITBA/NFAC/S/250/2023-24/1061565361(1)].

2. At the outset of hearing, we notice that the appeal has been filed belatedly by 15 days for which the assessee has filed an application for condonation of delay which is placed on record wherein it is stated that the assessee is a senior citizen aged about 69 years old and documents were handed over to the tax consultant for filing before the Tribunal and that the tax consultant took more time for filing the appeal. On going through the

application for condonation of delay dated 12.07.2024, placed in Paper Book at pages 4 – 6 and Form No.36 as per Sl. No.12, the appeal filing fee of Rs.10,000/- has been paid by the assessee on 01.04.2024 but the appeal was filed before the Tribunal on 15.05.2024. Considering the application filed by the assessee we condone the delay in filing the appeal by 15 days and proceed to dispose off the appeal on merits.

3. The learned Counsel for the assessee had filed adjournment petition stating that he was unwell and hospitalised on 16.11.2024. Further, on going through the Paper Books filed by the assessee and written submissions, we reject the adjournment petition and heard the case qua the DR.

4. Briefly stated, the facts of the case are that as per the data available with the Income Tax Department, the assessee has deposited cash of Rs.14,16,500/- during demonetization period and there was no proof for filing the return of income for the relevant Assessment Year, therefore, notice under section 142(1) of the Act was issued to the assessee and time was granted to file return of income. However, the assessee did not file return of income. The assessee was issued notice for explaining the source of cash deposits made into bank account, but there was no reply by the assessee and a final opportunity was also given to the assessee. Accordingly, the assessment was completed ex-parte under section 144 of the Act and assessed the entire cash deposit as unexplained money and added the same under section 69A of the Act and applied special rate of tax under section 115BBE of the Act, and completed the assessment on 06.12.2019.

5. Aggrieved from the above Order, assessee filed appeal before the NFAC. The NFAC granted opportunity to the assessee and during the appellate proceedings, the explanation was submitted that the assessee had given loan to four persons totaling to Rs.6,25,500/- and which was accepted by the NFAC and rest amount of Rs.7,91,500/- was added to the total income.

6. Aggrieved from the above Order, the assessee filed appeal before the Tribunal. The learned DR relied on the Order of the lower authorities and submitted that the assessee could not prove the source of cash deposits of the balance amount of Rs.7,91,500/-. Therefore, the amount should be confirmed. It was submitted that assessee should not be granted any relief, since he got two opportunities to represent his case before the lower authorities, therefore, it was submitted that the lower authorities are justified.

7. Considering the submissions of the learned DR and written submissions filed by the learned AR on 21.08.2024, which are placed on record, we note that the assessee is a senior citizen aged about 69 years old, and retired as an employee from M/s Sandur Manganese Iron Ore Limited. He had received retirement benefits which were deposited into the bank account. During the appellate proceedings, the assessee filed additional evidence and it was sent to the AO for remand report and the AO has submitted the remand report and it was brought to the notice of assessee and assessee has also filed rejoinder. There is no dispute regarding the retirement benefits received by the assessee of Rs.20,38,444/- on 31.03.2015 and it was deposited in the above bank account. The closing balance in Canara Bank A/c No.06132200056470 as on 31.03.2016 is only Rs.1,494/-

and NFAC has also noted there is substantial withdrawal from the above bank account. The NFAC has accepted the advances given to four parties of Rs.6,25,000/-. The assessee has deposited cash as on 12.11.2016 of Rs. 14,00,000/- and on very next day the same amount has been transferred to APOORVA GOLD Bellary for buying 444.44 Gms Gold. Since there is no dispute that regarding substantial withdrawal from bank before demonetization. Considering the threshold limits for taxation to the senior citizens and age of the assessee and withdrawals made by the assessee from the Canara Bank, we allow the appeal of the assessee.

8. In the result, the appeal by the assessee is allowed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(SOUNDARAJAN K.)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated : 28.11.2024.
/NS/*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.