

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

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2014/Bang/2024
Assessment Year : 2017-18

Smt. Sumati Sathish Khanderao, 372, Main Road, Belur, Hassan – 573 115. <b>PAN : BLAPS 3596 K</b>	Vs.	The Income Tax Officer, Ward – 2, Hassan.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Sunaina Bhatia, Advocate.
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	21.11.2024
Date of Pronouncement	:	29.11.2024

**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/250/2024-25/1067756232(1)] dated 20.08.2024.

2. Briefly stated, the facts of the case are that a notice under section 142(1) dated 01.12.2017 was issued to the assessee calling to file Income Tax Return for Assessment Year 2017-18 by 31.12.2017. During the demonetization period, assessee deposited cash of Rs.97,80,040/- into her bank account. The AO issued notices but the assessee did not respond the notices. The AO issued show cause notice on 17.09.2019 proposing to complete the assessment under section 144 of the Act and assessee was given time till 23.09.2019. In response, the assessee appeared on

23.09.2019 and furnished copy of VAT returns for the period from 1.04.2016 to 31.03.2017 along with a reply in response to cash transactions and assessee submitted that she is wholesale distributor of Tata Teleservices, Parle G biscuits and other miscellaneous products and runs a business in the name of "National Enterprises". She further submitted that the cash deposited relates to transactions from her regular business activity and assessee sought 3 days time to file return of income. Assessee did not comply with the notice issued.

3. The assessee filed some documents and VAT Return. As per VAT return filed for Financial Year 2016-17, the total turnover of Rs.6,99,00,000/- was shown. After examining the documents furnished by the assessee, the AO noted that the assessee has not filed return of income for the impugned assessment year. Therefore, considering the same line of business, estimated the profit @ 2.5% on the turnover of Rs.6,90,40,504/- resultantly, there was an income of Rs.17,26,012/- was computed under the head 'business income'. Apart from that, assessee deposited cash of Rs.1,00,17,900/- during the demonetization period out of cash sales were explained. From the bank statement, it was verified and noticed that the assessee has deposited a sum of Rs.8,59,500/- in Specified Bank Notes (SBNs). Hence, the sum of Rs.8,59,500/- deposited in SBNs is held as unexplained money under section 69A of the Act. Accordingly, the total income of the assessee was assessed at Rs.25,85,512/- (Rs.17,26,012 + Rs.8,59,500).

4. Aggrieved from the above Order, assessee filed appeal before the CIT(A). The CIT(A), considering the materials available before him and

submissions made by the assessee, dismissed the appeal of the assessee observing as under:-

*“8.1 I also find that the assessee did not file any submissions supported by proper evidence along with a petition under Rule 46A for admission of evidence in the appellate proceedings. The assessee has not controverted the findings of the AO supported by proper evidence. I also find that the additions made by the AO are based on solid evidence which was confronted to the assessee by the AO and the additions are made as per the provisions of law. No evidence whatsoever has been filed by the assessee to substantiate and buttress the grounds of appeal. The assessee has not submitted any proof in support of its contention that it had been carrying on business during the year. The assessee has also not established that it had been carrying on similar business in the earlier years and subsequent years and that it had the consistent practice of depositing a large amounts of cash in its bank accounts every year before and after the A.Y.2017-18. In the circumstances, I do not see any reason to interfere with the well reasoned and speaking order of the AO. Therefore, both the additions made by the AO as discussed above are confirmed.”*

5. Aggrieved from the above Order, assessee filed appeal before the Tribunal. The learned Counsel submitted that the AO has applied high rate of profit rate while estimating the net profit of the assessee and there are no comparable cases applied by the AO. She further submitted that the assessee deposited cash in SBNs out of the sale proceeds received by the assessee in regular course of business. Therefore, the addition made under section 69A of the Act is unjustified under the facts and circumstances of the assessee's case. The CIT(A) has wrongly applied section 115BBE of the Act for the levy of tax on the income determined by the AO under section 69A of the Act. The assessee is engaged in the wholesale business of Tata Tele services where the profit margin is very low and the AO has wrongly

applied 2.5% which is on the very higher side and assessee had incurred necessary expenditure to carryout normal business activities. The AO has not considered the legitimate expenditures incurred. She further submitted that the addition under section 69A of the Act is also not justified since the cash deposited in the SBNs were part and parcel of the business proceeds. She filed a Paper Book containing 41 pages. She further submitted that the documents submitted by the assessee has not been appreciated by the CIT(A). She undertook that if a chance is given to the assessee, assessee will be able to demonstrate that the cash deposited in bank accounts in SBNs were part of the sales made by the assessee.

6. The learned DR relied on the Orders of the lower authorities. He further submitted that both the authorities provided various chances to the assessee for explaining the cash deposits. The AO has rightly applied the Net Profit rate out of the turnover reported in VAT return. Therefore, order of the CIT (A) should be upheld.

7. Considering the rival submissions and on perusal of the material available on record and the Orders of the authorities below, we note that the AO has issued notice on the basis of information available before him that the assessee deposited cash during demonetization period and she has not filed return of income and several opportunities were granted to the assessee to represent its case. During the course of assessment proceedings, assessee furnished copy of VAT returns explaining the cash deposits of Rs.1,00,17,900/- during the demonetization period out of which Rs.8,59,500/- was in SBNs and considered as income under section 69A of the Act. The AO has estimated net profit @ 2.5% amounting to Rs.6,90,40,504/- on the turnover. On going through the documents

furnished by the assessee, it is evident that assessee has filed VAT return. Considering the arguments of the learned AR that the assessee was not aware about the appellate proceedings before the CIT(A) and the facts and circumstances of the case, in the interest of justice and equity, we are remitting the issue back to the CIT(A) for considering the issue afresh and decide the issue as per law. Needless to mention that assessee shall cooperate in the appellate proceedings for early disposal of the case and shall not seek unnecessary adjournment in the matter.

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

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

Sd/-  
**(KESHAV DUBEY)**  
**JUDICIAL MEMBER**

Sd/-  
**(LAXMI PRASAD SAHU)**  
**ACCOUNTANT MEMBER**

Bangalore,  
Dated : 29.11.2024.  
/NS/\*

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.