

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.339/PUN/2021  
निर्धारण वर्ष / Assessment Year : 2017-18

Shri Santosh Harichand Katrela, Audut Campus, Jalna Road, Gujrathi Colony Beed, Beed- 431122. PAN : AKGPK6862N	Vs.	ITO, Ward-1, Beed.
Appellant		Respondent

Assessee by : Smt. Deepa Khare  
Revenue by : Shri Arvind Desai

Date of hearing : 13.11.2024  
Date of pronouncement : 12.12.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the assessee is directed against the order dated 18.03.2021 passed by Ld. CIT(A)/NFAC for the assessment year 2017-18.

2. Registry has pointed out that the appeal is filed with delay of 99 days. In the light of the fact that due to Covid-19 pandemic the period of limitation has already been extended by Hon'ble Supreme

Court, the appeal is treated as filed in time & accordingly admitted for adjudication.

3. The Appellant has raised the following grounds of appeal :-

*“1. The Appellant request for condonation of delay in filing the appeal. The appellate order u/s.250 - dt. 18/03/2019 passed by CIT (As)-, National Faceless Appeal Centre, Delhi was received on 18/03/2021 and as such appeal was due to be filed on or before 17/05/2021, Application for condonation of delay is being separately filed affirming the reasons for delay in filing the appeal. Thus, it is requested to please condone the delay in filing the appeal, considering the widespread pandemic situation, and admit it for adjudication on facts and merit of the case and oblige.*

*2. On the facts and in the circumstance of case and in law, The Ld.CIT(As),NFAC Delhi, has erred in confirming addition of Rs.4,74,000/-, invoking provision of section 68 of the I T Act, (which was made by A.O u/s.69 A of the I T Act,) without granting any opportunity for doing so. As such there has been a gross breach of the principles of natura justice because of adequate opportunity to meet the case made out was not given to the appellant. Thus impugned order of CIT(As)NFAC, Delhi, is certainly bad in law and void ab initio and hence deserves to be quashed.*

*3. On the facts and in the circumstance of case and in law, the Ld.CIT(As),NFAC Delhi, has erred in confirming addition of Rs.4,74,000/-, invoking provision of section 68 of the I T Act, instead of deleting addition made u/s.69A of I T Act, though admitted by him that addition u/s.69A cannot be made. Thus, addition may please be deleted.*

*4. On the facts and in the circumstance of case and in law, the Ld.CIT(As),NFAC Delhi, has erred in confirming addition of Rs.4,74,000/-, invoking provision of section 68 of the I T Act, though it's ingredient is not fulfilled. Thus, addition may please be deleted.*

*5. The Appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal, if deemed necessary at the time of hearing of the appeal.”*

4. Facts of the case, in brief, are that the assessee is an individual filed his return of income on 23.10.2017 declaring total income of Rs.9,98,290/-. The case was selected for scrutiny and accordingly notices u/s 143(2) and 142(1) were issued to the assessee. During the course of assessment proceedings, it was found by the Assessing Officer that the assessee has deposited Rs.4,74,000/- SBN into his bank accounts. It was also found by the Assessing Officer that the assessee has accepted Rs.4,74,000/- of Specified Bank Notes, which he was not allowed for the reason that the assessee cannot accept the demonetized currency i.e. SBN of Rs.1000 & Rs.500 denomination from 09.11.2016 onwards, as the same were not a legal tender. It was found by the Assessing Officer that opening cash balance on 09.11.2016 was Rs.13,26,000/- SBN, & cash deposited in bank on 10.11.2016 and 11.11.2016 amounting in all to Rs.18,00,000/- hence excess cash deposited in SBN Rs.4,74,000/- (18,00,000 – 13,26,000). It was accordingly held by the Assessing Officer that the above amount was accepted by the assessee after declaration of demonetization hence the above amount of Rs.4,74,000/- is treated as unexplained money and added to the total income of the assessee

u/s 69A r.w.s. 115BBE in view of second amendment to section 115BBE made through Finance Act, 2016 w.e.f. 15.12.2016. Accordingly, the assessment was completed u/s 143(3) on a total income of Rs.14,72,290/- as against the income returned by the assessee at Rs.9,98,290/-. The above assessed income includes Rs.4,74,000/- as unexplained money u/s 69A of the IT Act.

5. In first appeal, after considering the reply of the assessee, Ld. CIT(A)/NFAC dismissed the appeal of the assessee and confirmed the addition made by the Assessing Officer. It is this order against which the assessee is in appeal before this Tribunal.

6. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT(A)/NFAC is not justified. It was submitted by Ld. AR that all the grounds, legal and factual, raised in this appeal are mainly related with addition of Rs.4,74,000/- to the income of the assessee. It was submitted that the addition of Rs.4,74,000/- was made to the income of the assessee on the basis of understanding, that the assessee was not permitted to accept SBN of Rs.1000 & Rs.500 denomination notes. Since the Assessing Officer found that the above SBN of value of

Rs.4,74,000/- were not Legal Tender & were accepted from 09.11.2016 to 10.11.2016, the same was added as unexplained money in the hands of the assessee. It was further submitted by Ld. AR that under identical situation and on similar facts other Co-ordinate Benches of the Tribunal has already deleted the addition. In support of above contention, Ld. AR relied on following decisions :-

- (a) ITO vs. Sri Tatiparti Satyanarayana, ITA No.76/Viz/2021 order dated 16.03.2022.
- (b) M/s Bhagur Urban Credit Co-op Soc. Ltd. vs. ITO, ITA No.561/PUN/2022 order dated 03.01.2023.
- (c) Mrs. Umamaheswari vs. ITO, ITA No.527/Chny/2022 order dated 14.10.2022.
- (d) M/s. Purani Hospital Supplies Private Limited vs. DCIT, ITA No.489/Chny/2022 order dated 31.05.2023.
- (e) Raju Mohanlal Mehta (HUF) vs. ITO, ITA No.813/PUN/2022 order dated 16.03.2023.
- (f) ITO vs. M/s. Manasa Medicals, ITA No.552/Bang/2022 order dated 31.10.2022.
- (g) Parasmani (Trust) vs. ITO, ITA No.201/Del/2020 order dated 14.11.2022.
- (h) Smt. Sekar Jayalakshmi vs. ITO, ITA No.20/Chny/2021 order dated 21.12.2022.
- (i) CIT vs. Bhaichand N. Gandhi, 141 ITR 67 (Bombay).

7. It was accordingly requested before the Bench to set-aside the order passed by Ld. CIT(A)/NFAC and delete the addition of Rs.4,74,000/- made by the Assessing Officer and confirmed by the Ld. CIT(A)/NFAC.

8. Ld. DR appearing from the side of the Revenue relied on the orders passed by the subordinate authorities and requested to confirm the same.

9. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book furnished by the assessee. We find that the assessee has accepted Rs.4,74,000/- on 09.11.2016 and 10.11.2016 and the Assessing Officer was of the opinion that the above amount accepted in SBN was not legal tender hence the addition of Rs.4,74,000/- was made in the hands of the assessee and simultaneously provisions of section 115BBE invoked which were brought on statute book by an amendment dated 15.12.2016. It was the contention of Ld. AR that as per the Cessation of Liabilities Act, 2017, the SBN of Rs.1000 & Rs.500 demonetized ceased to be legal tender w.e.f. 31.12.2016 i.e. the appointed day and accordingly it is requested that prior to this

appointed day Rs.1000 & Rs.500 denomination notes were legal tender and therefore the Assessing Officer was not correct in making the addition and consequently Ld. CIT(A)/NFAC was also not justified in confirming the action of the Assessing Officer. It was also the alternate contention of the counsel of the assessee that the provisions of section 115BBE were brought on statute book w.e.f. 15-12-2016, hence cannot be applied on a transaction which took place prior to 15-12-2016. In support of its main ground that the addition of Rs 4,74,000/- is not correct, Ld. AR relied on various decisions passed by the Co-ordinate Benches of this Tribunal. In one of such decision passed in the case of ITO vs. Sri Tatiparti Satyanarayana, ITA No.76/Viz/2021 order dated 16.03.2022, the Tribunal observed in para 9 of the order as under :-

*“9. We have heard both the parties and perused all the documents on record. We find that there was sufficient cash balance with the assessee as detailed in page No.30 of the paper book. The Specified Bank Notes (Cessation of Liabilities) Act, 2017, defines “appointed day” vide Section 2(1)(a). As per Section 2(1)(a), “appointed day” means the 31<sup>st</sup> Day of December 2016. Section 5 of the Specified Bank Notes (Cessation of Liabilities) Act, 2017 also deals with prohibition on holding, transferring or receiving specified bank notes. Section 5 states that “On and from the appointed day, no person shall knowingly or voluntarily, hold, transfer or receive any specified bank note”. We therefore, find that the specified bank notes can be measured in monetary terms since the guarantee of the Central Government and the liability of Reserve Bank of India does not cease to exist till 31.12.2016. In view of the above, the contention of the Ld. DR, treating the receipt*

*of SBNs from cash sales as illegal and thereby invoking the provisions of section 69A is not valid in law. Therefore, we dismiss this ground of the Revenue.”*

10. Apart from the above decision the Co-ordinate Bench of this Tribunal in the case of M.s Bhagur Urban Credit Co-op Soc. Ltd. vs. ITO, ITA No.561/PUN/2022 order dated 03.01.2023 also deleted the addition which was made on the basis of accepting the old currency i.e. SBN between 09.11.2016 to 11.11.2016 which were deposited in the bank account. Ld. DR could not bring on record any contrary material in support of the Revenue. Respectfully following the above decision passed in the case of (1) Sri Tatiparti Satyanarayana (supra) and (2) M/s. Bhagur Urban Credit Co-op Soc. Ltd. (supra) we deem it fit to set-aside the order passed by Ld. CIT(A)/NFAC and direct the Assessing Officer to delete the addition of Rs.4,74,000/- made by him. Thus, this ground is allowed in favour of the assessee.

11. Since the main ground of appeal regarding addition of Rs.4,74,000/- has been allowed in favour of assessee, therefore, other grounds raised in this appeal becomes academic in nature, hence not adjudicated.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 12<sup>th</sup> day of December, 2024.

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER

Sd/-  
(VINAY BHAMORE)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 12<sup>th</sup> December, 2024.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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