

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1667/Bang/2024
Assessment Year: 2017-18

JB Dairy Farms Private Limited No.92, Natraj Building Opp SNS Arcade Old Airport Road Konena Agrahara Bangalore 560 017  <b>PAN NO : AAC CJ5586H</b>	<b>Vs.</b>	ITO Wad-4(1)(1) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Subramanya Bhat, A.R.
<b>Respondent by</b>	:	Ms. Neha Sahay, D.R.

<b>Date of Hearing</b>	:	16.12.2024
<b>Date of Pronouncement</b>	:	18.12.2024

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against the CIT(A)/NFAC order dated 27.9.2019 vide DIN & Order No.ITBA/AST/S/144/2019-20/1018365790(1) for the AY 2017-18 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”).

**2.** The assessee has raised following grounds of appeal:

- 1) *“The order of the learned Commissioner of income tax (Appeal), passed under section 250 of the Act in so far as it is against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.*
- 2) *The appellant itself liable to be assessed total income of Rs. 1,06,16,000/on the facts and circumstances of the case.*
- 3) *The learned CIT(A) erred in making addition of Rs.1,06,16,000/- towards cash deposit to bank under unexplained cash credit under*

*section 69A of IT Act 1961 and taxed us 115BBE of IT Act 1961 on the facts and circumstances of the case.*

- 4) *That the learned CIT(A) erred in making addition towards cash deposited in bank account under Unexplained cash credit under section 69A of IT Act 1961 for the AY 2017-18 of Rs.17,16,000/- even though the transaction was related to the AY 201617 on the facts and circumstances of case.*
- 5) *The learned CIT(A) failed to appreciate that not providing reasonable opportunity to the assessee to explain the source of cash deposit in the interest of natural justice on the facts and circumstances of the case.*
- 6) *Without prejudice to the right to seek waiver as per the parity of reasoning of the decision Of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies herself liable to be charged to interest under section 234 of the Income Tax Act under the facts and circumstances of the case. The appellant contends that the levy of interest under section 234A, 234 B and 234 C of the Act also bad in law as the period, rate, quantum and method of calculation adopted by the learned assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.*
- 7) *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
- 8) *For these grounds that may be urged at the time of hearing of appeal, the appellant prays that appeal may be allowed for the advancement of substantial cause of justice and equity.”*

**3.** Brief facts of the case are that assessee company engaged in a Dairy Farm had not filed the return of income for the AY 2017-18. As per the information gathered relating to “Cash deposited during the demonetization period” available in AIMS Module of ITBA, the substantial cash deposits were noticed in the case of the assessee company during the demonetization period and accordingly notice u/s 142(1) of the Act was issued and served on the assessee. However, there was no compliance to the same. During the course of assessment proceedings, the AO found that assessee has deposited total cash in the Syndicate Bank account amounting to Rs.1,06,16,000/- during the financial year 2016-17, out of which an amount of Rs.89,00,000/- has been deposited during the

demonetization period only. Ld. AO by observing that there is no plausible explanation by the assessee for the sources of cash deposit made considered that the assessee has nothing more to offer and accordingly constrained to pass best judgement assessment u/s 144 of the Act based on the material collected and submission to show cause notices issued and accordingly, the entire cash deposit of Rs.1,06,16,000/- were added u/s 69A of the Act as unexplained money. Aggrieved by the aforesaid order of the AO passed u/s 144 of the Act, assessee preferred an appeal before the ld. CIT(A)/NFAC.

**3.1** The ld. CIT(A)/NFAC confirmed the addition of Rs.1,06,16,000/- on the ground that assessee has neither attached/uploaded any submission nor submitted evidences/documents/explanation in support of facts and grounds of appeal. Further, despite being given many opportunities, the assessee neither responded during the appellate proceedings nor has furnished requisite details/explanations, which were required to adjudicate the present appeal and accordingly dismissed the appeal. Aggrieved by the order of the ld. CIT(A)/NFAC, the assessee has filed the present appeal before this Tribunal.

**4.** Before us, both the parties fairly conceded that the issue may be remitted to the file of AO since both the authorities below have not considered the case on merits. Further, we take a note of the fact that the only addition made by the AO is with regard to cash deposit made in Syndicate Bank during the FY 2016-17, out of which, an amount of Rs.89 lakhs has been deposited during the demonetization period. We also take a note of the fact that authorities below have not considered the CBDT circulars in order to verify the substantial cash deposit during the demonetization period. Even the AO during the assessment proceedings has not considered the relevant CBDT circulars that was issued for the purpose of verifying the demonetized

cash deposit during the year under consideration. Admittedly, the order has been passed by the authorities below without considering the above circulars and without giving appropriate opportunities of being heard to the assessee. Being so, at the request of the Id. A.R of the assessee and in the interest of principles of natural justice and equity, we are of the opinion that one more opportunity may be given to the assessee to substantiate his claim. Accordingly, we set aside the entire issue in dispute to the file of AO for de-novo consideration in accordance with law. Needless to say, a reasonable opportunity of being heard must be granted to the assessee. We also direct the AO to verify the entire cash deposit made by the assessee in his bank account during the year in consideration in accordance with following circulars which are applicable to the facts of the case:-

- a) The 1<sup>st</sup> instruction was issued on 21/02/2017 by instruction number 03/2017.
- b) The 2<sup>nd</sup> instruction was issued on 03/03/2017 instruction number 4/2017.
- c) The 3<sup>rd</sup> instruction was in the form of a circular dated 15/11/2017 in F.No. 225/363/2017-ITA.II and the last one dated 09/08/2019 in F.no.225/145/2019-ITA.II.

and decide the issue in the light of above CBDT instructions issued for dealing with demonetization. The assessee is also directed to submit all the evidences/documents/records/information for proper adjudication of the case. We clarify that in case of further defaults, the assessee shall not be entitled for any leniency.

**5.** In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> Dec, 2024

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 18<sup>th</sup> Dec, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**