



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

BEFORE MS.ASTHA CHANDRA, JUDICIAL
MEMBER AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2269/PUN/2024

निर्धारण वर्ष / Assessment Year: 2017-18

Radha Ramdigesh Mapuskar, Hotal Van Vihar, At Hatkhambatitha, Post-Hatkhamba, Ratnagiri – 415619. PAN: BXAPM4802Q	V s	The Income Tax Officer, Ward-1, Ratnagiri.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Pramod Shingte – AR
Revenue by	Smt. Shraddha Nichai – Addl.CIT(DR)
Date of hearing	11/12/2024
Date of pronouncement	12/12/2024

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 04.09.2024 passed u/sec.250 of the Income tax
Act, 1961. The Assessee has raised the following grounds of
appeal :

*“1. On the facts and circumstances of the case and in law the
CITIAN, INFAC erred in confirming the addition made by the ITO of*



Rs 5,50,000/- representing the total of cash deposits during demonetization period, not accepting the contention of the appellant.

The appellant prays that the ITO be directed to delete the addition

2. On the facts and circumstances of the case and in law the CIT(A), SPAC erred in confirming action of the ITO of applying the provisions of Sec. 115BBE as amended with effect from 15.12.2016 while working out the tax liability, not accepting the contention of the appellant that the provisions of Sec. 115BBE should be applied as prevailed as on the first day of the previous year and not as amended later on

The appellant prays that the ITO be directed appropriately in the matter

The appellant craves leave to add to, amend, alter, delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.”

Submission of LdAR :

2. Ld.Authorised Representative(Ld.AR) for the Assessee filed a paper book. Ld.AR submitted that the assessee is a small fruit vendor engaging mainly in sale of Mangoes. Assessee was not having taxable income hence she was not required to file return. Her sale is mainly in cash. Ld.AR further submitted that during the assessment proceedings assessee had filed all the details like certificate issued by Gram Panachayat that Assessee is a Fruit vendor, Confirmations from some customers. Hence the addition made by the AO needs to be deleted.

**Submission of Ld.DR :**

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of the AO and CIT(A). Ld.DR vehemently stated that Assessee has deposited Cash during the demonetization period and the explanation is not satisfactory. Hence Additions needs to be sustained.

Findings and Analysis :

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

4.1 The assessing officer in para 5 of the assessment order has admitted that assessee had filed submission vide letter dated 09/12/2019. However, the Assessing Officer made addition in the assessment Order. The relevant paragraphs of the assessment order are as under :

“6. The submission of the assessee are considered, but not fully acceptable. Even if considering the documentary evidence for mango trading, the source of income for the entire cash deposits stated to be out of the sale proceeds cannot be fully justified. It is worth mentioning that almost entire amounts of cash deposits made during the whole year (F.Y.2016-17) are during the demonetization period only. In view of the these facts, the explanation for cash deposits in Indusind Bank account and SBI Bank account to be out of sale proceeds of mango trading is not acceptable.”

4.2 Then, in Para-8, the Assessing Officer(AO) observed that Assessee has deposited Rs.3,00,000/- in cash during



demonetization in her Account of Indusind Bank and Rs. 2,50,000/- in SBI Account. Then, the AO made addition of Rs.5,50,000/- under section 69A of the Act. Aggrieved by the assessment order, assessee filed an appeal before the Id.CIT(A). Ld.CIT(A) confirmed the addition.

4.3 It is a fact that Assessee claimed before the Assessing Officer that she is Fruit Vendor. She received cash from sale of fruits. It is also a fact that she had filed a certificate issued by Gram Panchayat that assessee is a Fruit Vendor since 2014. Copy of the said certificate was enclosed by the Id.AR in the paper book. Assessee has also submitted copies of certain confirmations from the Purchasers regarding cash payments in lieu of mangoes. None of these evidences have been rebutted by the Assessing Officer. Assessing Officer has made an addition only because assessee had deposited cash during the Demonetization Period. Assessing Officer has ignored the explanation offered by the assessee. Neither the Id.CIT(A) has disputed the assessee's claim that she is a Fruit Vendor nor the Assessing Officer. In these facts and circumstances of the case, we are of the opinion that assessee had duly discharged her onus of explaining source of cash deposits



made during the Demonetization Period. Therefore, we direct the Assessing Officer to delete the addition of Rs.5,50,000/- made under section 69A of the Act. Accordingly, Ground No.1 of the assessee is allowed.

4.4 Since we have deleted the quantum addition of Rs.5,50,000/- the ground no.2 becomes academic in nature, hence Ground No.2 dismissed as unadjudicated.

5. In the result, appeal of the assessee is Partly Allowed.

Order pronounced in the open Court on 12th December, 2024.

Sd/-
(MS.ASTHA CHANDRA)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 12th Dec, 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.