

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**  
**BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER**  
**ITA No.3467/M/2024**  
**Assessment Year: 2017-18**

<b>Shantirani Saarathamal Dagriya</b> 2 A 132 Kalpatru CHS Ltd., Fantasy Land JVL Road, Andheri (East), Mumbai- 400093. <b>PAN: APZPD2996Q</b>	Vs.	<b>The Income Tax Officer- 34 (3)(1)</b> Room No. 833, 8 <sup>th</sup> Floor, Kautilya Bhavan, C-41 to C-43, G Block, Bandra Kurla Complex, Bandra (East), Mumbai- 400051.
<b>Appellant</b>	:	<b>Respondent</b>

**Present for:**

**Assessee by**

: Shri Kunal Dilip Lunawat

**Revenue by**

: Ms. Pradnya Gholap (Sr. DR)

**Date of Hearing**

: 05.12.2024

**Date of Pronouncement**

: 30.12.2024

**ORDER**

**Per Beena Pillai, JM:**

Present appeal arises out of order dated 08/05/2024 passed by Ld. CIT(A) Faridabad for assessment year 2017-18 on following grounds of appeal:

*“EACH AND EVERY GROUND OF APPEAL IS IN THE ALTERNATIVE AND WITHOUT PREJUDICE TO THE OTHER.*

*1) The order of the Ld. Commissioner of Income Tax. Appeal ADDL/JCIT(A) Faridabad, (Hereinafter to referred to as the Ld.CIT (A))is contrary to law. facts and circumstances of the case.*

*2) The Ld. CIT(A)erred in passing the order without providing a proper opportunity for the appellant to be heard, despite the appellant's*

*request for an adjournment due to the sudden death of the appellant's authorised representative. By denying the appellant the opportunity to present case, the Ld. CIT(A) has violated the principles of natural justice. Therefore, the order passed by the Ld. CIT(A) needs be quashed.*

*3) The Ld. CIT(A) has grossly erred in law as well as on facts in confirming the addition made under Section 69A of the Income Tax Act, 1961, by the Assessing Officer to the tune of Rs. 10,07,000/- on account of cash deposits during the demonetization period, and consequently imposing tax under section 115BBE of the Income Tax Act, 1961, without giving due consideration to the age, physical condition, and financial background of the appellant.*

*4) The Ld.AO erred in passing the order without giving proper opportunity of being heard and without proper service of notice.*

*5) The Ld. AO erred in initiating penalty proceedings u/s.271AAC of the Income Tax Act.*

*6) The Ld.AO erred in imposing penalty u/s.234F of the Income Tax Act.*

*7) The Ld.AO erred in imposing interest u/s 234A of the Income Tax Act.*

*8) The Appellant craves leave to add, amend, alter, delete or drop any of all ground of appeal at the time of the appeal proceedings.”*

### **Brief facts of the case are as under:**

**2.** The assessee is a senior citizen of age 89 years, and is currently residing at Madhya Pradesh. It was submitted that, the assessee belongs to a marwadi business family and her husband was a well-known businessman. Her two sons are established diamond merchants. It is submitted that upon demise of assessee's husband, she inherited his savings and all other financial assets in addition to her own personal savings and street dhan.

**2.1.** Considering age related health issues, assessee always preferred to keep cash at her residence in native place, and also at her son's residence where she frequently used to visit. It is



submitted that, assessee being a homemaker did not have any formal business experience or financial acumen. During the year under consideration on 08/11/2016 when the demonetisation of specified banknotes was announced, assessee deposited the entire cash holdings amounting to ₹ 10, 07, 000/-in her bank account. Subsequently she invested the said amount in fixed deposits in her name.

**2.2.** During the year under consideration assessee received notice under section 142 (1) to file the return of income. The notice was based on the data gathered during the online verification phase under operation clean money, wherein individuals who deposited substantial cash during the demonetisation were targeted. All subsequent notices were sent to the assessee's tax portal and due to her age and lack of technical knowledge, assessee was unaware of proceedings being initiated. It was only after receiving physical notice, she sent her authorised representative to attend proceedings. As consistently none appeared before the assessing officer, assessment order was passed under section 144 of the act, making addition of ₹10,07,000/- under section 69A as unexplained money in the hands of the assessee.

Aggrieved by the order of the Ld. AO, assessee preferred appeal before the Ld. CIT(A).

**3.** Upon receipt of notice of hearing from the Ld. CIT(A), assessee sought adjournment due to unfortunate demise of the authorised



representative. It is submitted that, despite genuine reason and request for short adjournment, the Ld.CIT(A) dismissed the appeal on procedural grounds without granting any opportunity of being heard to the assessee and confirmed the addition made by the Ld. AO.

Aggrieved by the order of the Ld. CIT(A), assessee preferred appeal before this tribunal.

**4.** The Ld.AR submitted that, **Ground number 1 & 2** are general nature, and assessee to not wish to assessee's grounds.

**Accordingly Ground No. 1 and 2 stands dismissed as not pressed.**

**5. Ground number 3** raised by the assessee is against addition made under section 69 A of the act by the Ld. AO was confirmed by the Ld. CIT(A).

**5.1.** The Ld.AR submitted that, the assessee deposited ₹ 10, 07, 000/-into her bank accounts during the monetisation. It is submitted that the deposits have been made by the assessee out of the same from the accounts held by her with yes Bank, OBC bank, AP Mahesh cooperative bank. He submitted that the said amount was accumulated by the assessee out of her savings and cannot be doubted.

**5.2.** The Ld.AR placed reliance on bank statements at page 25-35 of the paper book, wherein the assessee has sufficient cash that was



withdrawn from time to time in the part, out of which certain amount was kept in her hands and the balance was deposited back. The Ld.AR submitted that in this manner assessee accumulated ₹ 10,07,000/-the court deposited into her bank account during that the demonetisation period. The Ld.AR prayed that the amount deposited cannot be treated as unexplained under section 69 a of the act.

**5.3.** On the contrary the Ld.DR submitted that you verification carried out. He submitted that except for furnishing the bank statement assessee has not filed any other details/evidence is in support of the claim of cash on hand.

We have perused submissions advanced by both sides in the light of records placed before us.

**6.** Admittedly, assessee has not filed any return of income even after issuance of notice under section 143 (2) of the act. It is noted that the assessee is having cash in the bank accounts viz. The Ld. AO is disputing for the reason that, assessee deposited it during the demonetisation. From the bank statements filed by the assessee, is thus clear that assessee had withdrawn cash from the banks which was finally deposited when demonetisation was announced.

**6.1.** Further the CBDT wide instruction number 3/2017 dated 21/02/2070 announced that, any taxpayers above 70 years of age was allowed to deposit the cash upto ₹ 5 lakh per person and the source of such amount can either be household savings or savings



in the past income. Thus to the extent of ₹ 5 lakh the disallowance made is not justified.

**5.2.** It cannot be forgotten that, women have a tendency of accumulating cash saved from household budgets and from whatever cash they receive from relatives and family members during festivals and occasions. Honourable Prime Minister and also CBDT considering this aspect had announced that a lady assessee is a housewife and do not have any business would not be questioned if the bank deposits during the demonetisation were found to be less than 2.5 lakhs.

**5.3.** In the present facts of the case considering the age of the assessee and the tendency to hold onto the cash at that age cannot be overlooked. Section 69 of the act is applicable to any deposits found in the credit of the assessee for which no explanation was offered by the assessee. In the present facts of the case assessee has filed bank statements that are self-explanatory regarding the withdrawals which was held by the assessee as on the date of demonetisation being declared.

**5.4.** Hence in my view assessee has duly explain the source of balance 5 Lakh cash deposited into the accounts, and therefore no addition can be made under section 69 of the act, unless there is a cogent evidence to prove that the amount deposited in the bank account was undisclosed income that falls outside the bank statements filed by the assessee. Nothing on record to raise doubts



in this regard has been filed by the revenue. I therefore do not find any reason to confirm the addition made in the hands of assessee u/s. 69 of the act and the same is deleted.

**Accordingly the grounds raised by the assessee stands allowed.**

**In the result appeal filed by the assessee stands allowed.**

**Order pronounced in the open court on 30-12 -2024.**

**Sd/-  
BEENA PILLAI  
JUDICIAL MEMBER**

Place: Mumbai,

Dated: 30.12.2024

*Snehal C. Ayare, Stenographer/ Dragon*

**Copy of the order forwarded to :**

1. The Appellant
2. The Respondent
3. Ld.DR, ITAT, Mumbai
4. Guard File
5. CIT

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**