

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA-PATNA 'e-COURT', KOLKATA  
[Hybrid Court Hearing]**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)**

**I.T.A. No. 319/PAT/2023  
Assessment Year: 2017-2018**

***Asheervad,.....Appellant  
C4/165, Asheervad Bhawan,  
Gyan Jyoti Academy,  
West of Sr. Karen's School, Gola Road,  
Patna-801503, Bihar  
[PAN:AQTPA1592J]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-4(1), Patna,  
Bihar***

**Appearances by:**

*Shri Sudeep Sinha, Advocate, appeared on behalf of the  
assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of  
the Revenue*

**Date of concluding the hearing: November 27, 2024**

**Date of pronouncing the order: December 30, 2024**

**O R D E R**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 1<sup>st</sup> September, 2023 passed for Assessment Year 2017-18.

2. The assessee is an individual and he deposited an amount of Rs.12,83,000/- in his Bank account during demonetization period, but the assessee has not filed any return of income. Notice under section 142(1) was issued and in response to the notice issued by the ld. Assessing Officer, the assessee appeared before the ld. Assessing Officer and filed his written submission on 10.10.2019 to explain his source of cash deposited during demonetization period. After considering the written submission, the ld. Assessing officer passed the assessment order under section 144 of the Act and the total income was assessed at Rs.10,33,000/-.

3. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

4. After considering the submission of the assessee, the ld. CIT(Appeals) dismissed the appeal saying that the assessee has not explained his source of cash deposited during demonetization period.

5. On being aggrieved, the assessee preferred an appeal before the Tribunal and raised the following grounds:-

*(1) For that the Learned CIT(A) has erred both in law and on facts.*

*(2) For that the learned CIT(A) has erred in sustaining the addition to the extent of Rs.10,33,000 made purely on hypothetical assumption and surmises which is bad in law and therefore, may be deleted.*

*(3) For that the AO, while admitting that the assessee is a student having no income of his own and had received cash amounting to Rs.12,83,000 from his maternal grandparents*

*to deposit in bank during demonetization period, should have accepted the amount in full to be the money given by grandparents to the assessee but the AO only partly allowed Rs.2,50,000 as an estimated life-saving of a septuagenarian person who never operated any bank account all his life and added the remaining amount of Rs.10,33,000 as unexplained money u/s 69A to the income of assessee based on assumptions and surmises.*

- (4) *For that as per the provisions of section 69A of the I.T. Act, 1961 that money is deemed to be the unexplained money of the assessee which is found to be his and is not recorded in the books of account, if any, maintained by him for any source of income. The learned A.O. accepts that the appellant is not the owner of the said cash deposited during demonetization in his assessment order and therefore, the appellant is not the owner of the money in question. Moreover, the appellant has no source of income from any valid sources and neither maintained any books of account nor was required to maintain books of account in the relevant assessment year as per section 44AA of the I.T. Act, 1961. Therefore, the provisions of section 69A of the I.T. Act, 1961 do not apply to the appellant.*
- (5) *For that the addition of Rs.10,33,000 as unexplained money u/s 69A is highly unjustified in view of the fact that the said money was not found unrecorded in books of account, if any, maintained by the appellant. The appellant did not maintain any books of account and the money added to the income as unexplained money u/s 69A was not found unrecorded in books of account, if any, maintained by the appellant.*
- (6) *For that the addition of Rs.10,33,000 u/s 69A of the I.T. Act, 1961 is arbitrary and unjust and therefore, may be deleted in view of the fact that the same does not belong to the appellant in view of the confirmation of appellant's grandparents during the assessment proceedings.*
- (7) *For that the calculation made by AO about the plausible net savings of maternal grandparents of assessee amounting to Rs.2,50,000, also approved by Ld. CIT(A) in its order, is hypothetical in nature as they have taken their income certificate of FY 2019-20 and made backward calculations by linearly deducting Rs.5,000 year on year. This lacks basis as income of a subsequent year cannot ascertain income of any previous year by deducting a fix amount, to adjust for inflation, especially in agricultural sector where the income depends on variable factors and inflation is never static.*

- (8) *For that the presumption made by A.O. and affirmed by Ld. CIT(A), based on income certificate of FY 2019-20, while calculating the income for FY 2016-17 is that the income of assessee's grandparents would necessarily decrease year on year is highly baseless and unjustified.*
- (9) *For that the income certificate was procured and submitted by assessee on the recommendation of AO during the assessment proceedings. However, he could only get the certificate for the current year, i.e. FY 2019-20, when the assessment proceedings were underway. Back dated income certificate for FY 2016-17, to which the assessment pertains, was not feasible.*
- (10) *For that the assessee established during assessment proceedings that his grandparents maintained no bank accounts and made their livelihood through agriculture, animal husbandry, dairy, etc. which are all exempt income as per the provisions of I.T. Act, 1961 and the AO has not produced any evidence on record to refute the same.*
- (11) *For that in the assessment order the AO accepted that the assessee is a student and has no income at all and his grandparents, who are illiterate and have no bank accounts, gave cash to the assessee, in demonetized currency, to deposit in bank which substantiates the fact that the cash deposited by the assessee emanated from the agricultural, animal husbandry, dairy, etc. activities of his grandparents.*
- (12) *For that the assessee relies on the order of Honourable ITAT in case no. ITA No. 36/DDN/2022 dated 23.06.2023 wherein it was held that preponderance of probability theory would go in favour of the assessee in the instant case. The predominant income available with the assessee is only the agricultural income. No other source of income is brought on record by learned Assessing Officer and it is not in dispute that the assessee is not engaged in any business or profession. The source of income in any manner whatsoever could only emanate from agricultural income. Hence, the overall explanation given by the assessee for explaining the cash deposits as emanating out of agricultural income need to be accepted. There is no other source available with the assessee which would have enabled him to earn income.*
- (13) *For that the total cash deposit of Rs.12,83,000 claimed to be the life savings of assessee's maternal grandparents, who never maintained bank accounts, is not a big quantum*

*for an old individual to have saved this much throughout his life and especially, when he had only a daughter, assessee's mother who was a dependant till she got married, and no other big responsibility to cater to.*

*(14) For that penalising the assessee for want of cash flow statement of his grandparents' available cash before demonetization and books of account such as bills & vouchers of seeds, fertilizers, etc. over the years to establish a life-saving of Rs.12,83,000 through agriculture, animal husbandry, dairy, etc., especially when no bank account was maintained, is highly unjustified and against natural justice.*

6. I have heard both the sides and gone through the submission of the assessee. From the submission of the assessee, I notice that the money, which was deposited in the bank account of the assessee, belongs to his grand-parents, who were aged about 65 years and they are doing agriculture in the remote village and also they are illiterate. They do not have any bank account. After demonetization, they have given all of their life-time earnings to the assessee and he has credited their money in his bank account. Therefore, the entire amount belongs to the assessee. Hence, he pleaded to delete the addition made by the ld. Assessing Officer.

7. On the other hand, it was the submission of the ld. D.R. that the assessee is a student aged about 30 years and has no income, but he has deposited an amount of Rs.12,83,000/- during demonetization period in his five bank accounts in different banks. He further submitted that the assessee has not produced any evidence to establish that the money belongs to his grand-parents and they have earned the same through their agricultural fields. Therefore, the ld. Assessing Officer as well as ld. CIT(Appeals) dismissed the plea taken by the assessee. He further submitted

that the assessee has not filed any evidence even before the Tribunal to establish that the grandfather of the assessee is having agricultural income. Hence, he pleaded to uphold the orders passed by the revenue authorities.

8. I have perused the material available on record. It is an admitted fact that the assessee has no source of income and he is only a student. His only submission is that the money belongs to his grandparents and during demonetization period, they handed over the same to the assessee. Thereafter he made deposit in five bank accounts. The assessee has not produced any evidence before me that they have agricultural income of Rs.12,83,000/-. However, the ld. Assessing Officer considered the amount of Rs.2,50,000/- as explained by the assessee and the remaining amount of Rs.10,33,000/- was treated as unexplained cash deposit in terms of section 69 of the Act. However, the ld. Assessing Officer has mentioned in the assessment order that *“it is evident that annual income of his material grandfather is Rs.1,10,000/- in the year 2019 as per Certificate issued by Circle Officer which includes Rs.60,000/- as agriculture income and Rs.50,000/- as income from other sources”*. Therefore, considering the facts, I am of the considered view that the assessee’s grandfather is having some agricultural income to the tune 1,10,000 and of Rs.60,000/- and 50,000/- in the year 2019. Therefore, considering the same, I am of the view that Rs.1,50,000/- has been explained by furnishing the source of cash deposit. Therefore, I direct the ld. Assessing Officer to delete Rs.1,50,000/- out of the addition made

by the ld. Assessing Officer, for Rs.10,33,000/-. Hence, the grounds raised by the assessee are partly allowed.

**9. In the result, the appeal filed by the assessee is partly allowed.**

Order pronounced in the open Court on 30/12/2024.

Sd/-

**(Duvvuru RL Reddy)  
Vice-President (KZ)**

***Kolkata, the 30<sup>th</sup> day of December, 2024***

*Copies to :(1) Asheervad,  
C4/165, Asheervad Bhawan,  
Gyan Jyoti Academy,  
West of Sr. Karen's School, Gola Road,  
Patna-801503, Bihar*

*(2) Income Tax Officer,  
Ward-4(1), Patna, Bihar*

*(3) Commissioner of Income Tax (Appeals);  
National Faceless Appeal Centre (NFAC), Delhi;*

*(4) CIT - , Patna;*

*(5) The Departmental Representative;*

*(6) Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***