

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “SMC”, MUMBAI  
BEFORE MS. PADMAVATHY S, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 3550/MUM/2024 (A.Y: 2017-18)**

**Shree Kaleshwar Tours and Travels,**

Shop No. 9, Ekvira Apartment,  
Opposite to Siddhivinayak Gate,  
Diva Manpada Road, Diva,  
Maharashtra – 400 612

**PAN: AAABS3897D  
(Appellant)**

R. No. 8, B wing, Ashar IT  
Park, 6<sup>th</sup> floor, Road n. 16Z,  
Wagle Industrial Estate, Thane  
(west), Maharashtra – 400  
604

**(Respondent)**

<b>Assessee Represented by</b>	<b>: Shri Jayant Bhatt, Ld. AR</b>
<b>Department Represented by</b>	<b>: Shri V. K. Chaturvedi, Ld. DR</b>
<b>Date of conclusion of Hearing</b>	<b>: 17.09.2024</b>
<b>Date of Pronouncement</b>	<b>: 09.12.2024</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal is filed by the appellant/assessee against the order of Learned Commissioner of Income Tax (Appeals) / Addl. JCIT,-8 Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the



Income Tax Act, 1961 [hereinafter referred to as “*the Act*”] dated 14.12.2023 for the A.Y. 2020-21 in pursuant to order dated 13.11.2019 passed by AO u/s 143(3) r.w.s. 144 of the Act.

2. The brief facts of the case are that the assessee is engaged in the business of tours and travels, money transfer agency, photocopy printing and lamination center and providing bill payments recharge services in the name of Shree Kaleshwar Tours and Travels. During the year under consideration i.e. AY 2017-18. Assessee has deposited cash in old currencies during the denomination period of Rs. 500 and Rs 1000 valued to Rs. 5,90,000/ and had deposited the same between the period 09.11.2016 to 31.12.2016. The income was already offered to tax under PAN AOPPG7346J, however Shree Kaleshwar Tours and Travels having a current account with GP Parsik Bank has recorded the PAN as AAABS3897D and accordingly the assessment of current account transactions is assessed and addition is made on account of SBN deposited to the tune of Rs 5,90,000/- in the said Current A/c No. 048011300000209. Further the AO has also made an addition of Rs. 1,88,000/- being 8 percent of Rs 23,50,040/- out of total deposits of Rs. 29,40,040/-. The said addition was disallowed u/s 144 of the Act.



3. Aggrieved with this order, assessee filed appeal before Ld. CIT (A) and filed his written submissions, but the Ld. CIT (A) confirmed the order of AO and dismissed the appeal of the assessee.

4. Aggrieved with the said order, the assessee is in appeal before us by raising the following grounds, which are as under:-

*1. Under the facts and circumstances of the case and in law, the order passed by AO being bad in law and the order of the AO should be annulled.*

*2. Under the facts and circumstances of the case and in law, the order passed by CIT(A) u/s 250 Ex-parte being bad in law, the same be annulled.*

*3. Under the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in Confirming an addition and assessed income tantamount to income being assessed twice which is impermissible in law and as such the same should be deleted in limine.*

*4. Under the facts and circumstances of the case and in law, The Ld.CIT(A) has erred in conforming the income at Rs. 7,78,000/- and that the same be deleted.*

*5. Under the facts and circumstances of the case and in law, Even if the assessment is found to be correct, the income should be assessed at Rs. 72,787/- as against Rs 7,78,000 assessed by the AO or for that matter the income should be substantially reduced.*

*Relief Claimed:*

*The assessment be annulled or alternatively, the assessment should be completed at NIL Income.*



*The appellant craves the right to add, amend, modify, alter or delete any of the grounds at the time of the hearing.*

5. We have heard Ld. AR and Ld. DR on behalf of the parties. At the outset, Ld. AR submitted that para 7 of the AO's order make it clear that the AO has not considered the fact that the amount which has been added to the taxable income was already assessed in PAN no. AAABS3897D of Shri Kaleshwar Tour and Travels of which assessee is proprietor and that entity having no separate legal status, therefore the additions resulted into double taxation. It is argued that such anomaly and double taxation has not been properly decided by the Ld. CIT (A) despite the requisite submissions made by the assessee. Therefore, Ld. AR requested to restore the matter to the file of Ld. CIT(A) for fresh adjudication. On the other hand, Ld. DR supported the order of AO as well as Ld. CIT (A).

6. We have considered the rival submissions and perused the orders of the lower authorities. It is noticed that the AO in his order in para no. 7 makes it clear that assessee has obtained two PAN no. and the details of which in para no. 6 & 7 are as under:-

*6. The data analysis of bank statement and submissions made by GP Pras Bank Limited, it reveals that credit entries made during the FY 2016-17 as under:-*



Sr. No.	Name & address of bank	Bank Account no.	Total credit entry for the F.Y. 2016-17	Cash deposit during demonization period	Cash deposit old current
1.	GP Parsik Bank	023/209	Rs. 29,40,040/-	Rs. 13,52,000/-	Rs. 5,90,000/-

7. The submission of the assessee is carefully been considered and the same is not acceptable on the following grounds:-

As per e-filing portal of Income Tax Department, it is noticed that the assessee is non-filer.

The Reserve Bank of India (RBI) had withdrawn Legal Tender character of old bank notes in the denomination of Rs 500/- and Rs 1000/- w.e.f. 8th November 2016, through Specified Bank Notes (cessation of liabilities) Act, 2017 and Specified Bank Notes (deposit of confiscated notes) Rules, 2017.

The legal tender character of the bank notes in denominations of 500 and 1000 issued by the Reserve Bank of India till November 8, 2016 (Specified Bank Notes) were withdrawn.

As per details provided by the bank, the assessee had deposited Cash in old currencies of denomination of Rs 500/- and Rs 1000/- valued to Rs. 5,90,000/-, which were withdrawn.

The details of denomination were obtained from the banks and were examined which clearly show that the assessee has deposited old currency notes (SBNs).

The sources of deposits of old currency notes (SBNs) were not explained.



*It is apparently clear that the cash deposits made in the bank accounts during FY 2016-17 relevant to AY 2017-13 are unexplained and from undisclosed sources. the same was not offered for taxation purposes.*

*The assessee himself vide his submission stated that during denomination period bank had stopped me to deposit cash in distributors bank account hence I have deposited that cash in my bank account. Despite knowing fact that the reserve bank of India had withdrawn legal tender character of old bank notes.*

*The assessee further stated that income on business activities has shown on PAN AOPPG7346J. The PAN i.e. AAABS3897D on which they have received notices were wrongly made. The same is also not acceptable The KYC obtained from bank wherein it is found that the assessee has submitted duly certified copy of PAN to the bank. Hence, the assessee has fully aware that he has obtained two PAN. One on his individual capacity and another on the name of M/s. Shree Kaleshwar Tours and Travels. The assessee has not filed return of income on the other PAN i.e. AOPPG7346J.*

*In this case, provisions of Section 69A of IT Act, 1961 are clearly attracted.*

7. Regarding the above observation, the Ld. CIT(A) in his order at para no. 8.1.3 to 8.3.3 held as under:-

*8.1.3 In view of the provisions of Section 144(1)(b) of the Income-tax Act, 1961, and for failure on the part of the assessee to furnish the Income Tax Return for A.Y. 2017.18 in response to notice u/s 142(1) of the Act dated 30.11.2017, the Assessing Officer is proceeded with completion of 'best judgment assessment' through E- Proceedings. As a result, we find no infirmity order passed u/s. 144 of the Income-tax Act, 1961 by the AO.*

*8.2 Finding on Ground of Appeal No.2.*



8.2.1 During the course of assessment proceedings, on the basis of AIR information available notice u/s 133(6) of Income Tax Act, 1961 dated 09.05.2019 was issued to GP Parsik Bank Limited, calling for bank account statement, KYC; details of cash deposits made during the F.Y. 2016-17, details of cash deposits made during demonetization period (9th November, 2016 to 30th December, 2016). In response thereto, the GP Parsik Bank limited provided details as called for through post. The KYC obtained from bank wherein it is found that the assessee had submitted duly certified copy of PAN to the bank. Hence, the appellant was fully aware that he has obtained two PAN. One in his individual capacity and, another in the name of M/s Shree Kaleshwar Tours and Travels. After, the data analysis of the bank account statements, the account holder name shown is shree Kaleshwar Tours and Travels. During the year under consideration the appellant's bank had submitted the annual information report regarding cash deposits in bank account where the bankers had reported such transactions under PAN AAABS3897D. As a result, I find no infirmity in the addition and assessed income assessed by the AO.

### 8.3 Finding on Ground of Appeal No.3.

8.3.1 As per facts of the case, during the course of assessment proceedings, the appellant neither filed Return of Income for A.Y. 2017-18 u/s. 139 of the Income-tax Act, 1961 nor furnish satisfactory explanation in respect of cash deposits of SBNs during demonetization period. Further, it was noted that the appellant has credited to the tune of Rs. 29,40,040/- account No. 48011300000209 maintained with GP Parsik Bank and the appellant has deposited cash of Rs. 13,52,000/- included old currencies of denomination of Rs. 500/- and Rs. 1,000/- to the tune of F.s. 5,90,000/- between 9th November, 2016 to 30th December, 2016 during the Financial year 2016-17 relevant to Assessment Year 2017-18. The demonetized amount to Rs. 5,90,000/- credit into appellant's bank account No. 48011300000209 maintained with GP Parsik Bank.



8.3.2 As per bank account statement, the total deposit was Rs. 29,40,040/- out of which, the old currency cash deposit amount of Rs. 5,90,000/- remained unexplained money u/s. 69A. The remaining amount of credit entries appearing in bank accounts was Rs. 23,50,040/- and the bank statement of the assessee has been perused carefully by the AO and it is found that the appellant is engaged in the business during F.Y. 2016-17. Keeping in view of this fact and in the interest of justice the amount of Rs. 23,50,040/- is treated as business turnover of the appellant. The reasonable profit of this receipt is estimated @ 8% which works out to Rs. 1,88,000/- and added the total income of the appellant during the year under consideration.

8.3.3 In view of the above discussed findings, I find no reason to decide against the action of AO in making addition made by the AO of Rs. 5,90,000/- unexplained money u/s. 69A. Further, the appellant has not explained the source of deposited of old currency note and the reasonable profit of this receipt is estimated @ 8% which works out to Rs. 1,88,000/- (8% of business turnover to the tune of Rs. 23,50,040/-) of the Income-tax Act, 1961. Hence, I find no infirmity in it. The Addition made by AO is confirmed.

8. It is thus clear from the above extracts of the order of lower authorities that the lower authorities have failed to consider the submissions of the assessee with regard to two PAN Nos. and has not considered the assessment of the SBN amount deposited to the tune of Rs. 5,90,000/- which has already been assessed in the PAN of M/s. Shree Kaleshwar Tours and Travels.



9. For these reasons, we are of the considered opinion that matter needs to be restored to the file of the Ld. CIT (A) for deciding the whole addition /disallowance afresh, giving effective hearing to the assessee who shall present its case before the Ld. CIT(A) within 60 days. The impugned order is accordingly set aside and appeal filed by the assessee is allowed in above terms.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 09.12.2024**

**Sd/-**

(PADMAVATHY S.)  
(ACCOUNTANT MEMBER)

Mumbai / Dated 09.12.2024  
Dhananjay, Sr.PS

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.  
//True Copy//

**Sd/-**

(RAJ KUMAR CHAUHAN)  
(JUDICIAL MEMBER)

BY ORDER

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