

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

|                           |
|---------------------------|
| ITA No.2062/Bang/2024     |
| Assessment Years: 2017-18 |

|   |     |  |
|---|-----|--|
| M.N Manjula,<br>W/o MN Nagabasappa,<br>#284, 1 <sup>st</sup> Main, 2 <sup>nd</sup> Cross, S.S Layout,<br>Near Soukhyada Hospital,<br>Davanagere – 577 004.<br><br><b>PAN – ALEPM 5631 Q</b> | Vs. | The Income Tax Officer,<br>Ward – 3,<br>Davangere. |
| APPELLANT   |     | RESPONDENT   |

|             |   |  |
|-------------|---|--|
| Assessee by | : | Smt. Prathiba, Advocate                        |
| Revenue by  | : | Shri Ganesh R Gale, Standing Counsel for Dept. |

|                       |   |            |
|-----------------------|---|------------|
| Date of hearing       | : | 15.01.2025 |
| Date of Pronouncement | : | 21.01.2025 |

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 29/08/2024 vide DIN No. ITBA/NFAC/S/250/2024-25/1068106793(1) for the assessment year 2017-18.

2. The issue before us pertains to whether the addition of ₹ 7,63,000/- as unexplained cash deposits by the Assessing Officer (AO) during the demonetization period is justified.

3. The assessee deposited ₹ 11,38,000/- in cash in her bank account during the period between November 11, 2016, and December 17, 2016. She explained the source of this amount as ₹ 3,75,000/- from agricultural income and an opening cash balance of ₹ 8,08,561.00/- only.
4. The AO accepted ₹ 2,00,000/- as satisfactorily explained but treated the remaining ₹ 9,38,000/- as unexplained income under Section 69A of the Income Tax Act, 1961. The AO doubted the availability of sufficient cash with the assessee, given her profile of declaring nominal income in earlier assessment years. Additionally, the AO highlighted that the deposits were made in parts instead of in one lump sum at the beginning of the demonetization period.
5. On appeal, the Commissioner of Income Tax (Appeals) [CIT(A)] confirmed the AO's findings in part after giving relief of Rs. 1,75,000.00 only by observing as under:

*"In order to substantiate the claim the appellant has furnished the cash book as well as the RTC for the agricultural land holding and the same has been taken due cognizance of. Now in order to adjudicate the issue contended I have also carefully examined the findings of the AO in respect of the appellant's previous years income details which were made during the assessment proceedings. It is pertinent to mention here during the previous years the appellant was having agricultural income at Rs 2,72,480/ and income was at Rs 2,72,480/. So the appellant plea that he was having the opening cash in hand balance during the year under consideration appears to be non genuine. How could it be possible that after having income of Rs 5.8 lakhs (approx) in the previous year (before the year under consideration) the cash of Rs 8,08,561/- can be generated which was claimed by the appellant as opening cash in hand as on 01/04/2016. In view of the facts above the plea made by the appellant of having the cash in hand balance of Rs 8,08,561/- is hereby rejected. However consideration of providing partial relief to the appellant, it has been determined that the cash deposits made into the bank account, to the extent that they*

*correspond to the agricultural income of Rs 3,75,000/- declared by the appellant, shall be recognized as originating from a legitimate source(out of Rs 3,75,000/- relief of Rs 2,00,000/- was already been given by the AO). As a result, the original addition of 9,38,000/- is restricted To Rs 7,63,000/- reflecting the portion of the deposit that cannot be satisfactorily explained by the appellant. Accordingly the only ground raised by the appellant stands partly allowed."*

6. Being aggrieved by the order of the Id. CIT-A, the assessee is in appeal before us.

7. The learned AR before us filed a paper book running from pages 1 to 46 and reiterated the contentions as made before the authorities below.

8. On the contrary, the Id. DR submitted that the assessee failed to justify based on the documentary evidence that there was cash available with her as opening balance. According to the Id. DR, had there been opening cash in hand with the assessee, she would have deposited the entire amount at the 1<sup>st</sup> instance itself instead of depositing the same piecemeal. The learned DR in support of his contention relied on the order of Hyderabad Tribunal in the case of Shiv Shankar Taparia versus DCIT in ITA No. 157/HYD/2013 for the assessment year 2009-10 order dated 20 December 2013.

9. I have examined the facts of the case and the submissions of both parties. From the preceding discussion, I note that the assessee has been declaring income by furnishing the return of income, the details of the same is reproduced as under:

| S. No.             | Assessment year | Agricultural income | Other income | Total Income               |
|--------------------|-----------------|---------------------|--------------|----------------------------|
| 1.                 | 2017-18         | 3,75,000            | 45,810       | 4,20,810.00                |
| 2.                 | 2016-17         | 3,08,801            | 2,72,840     | 5,81,641.00                |
| 3.                 | 2015-16         | 3,94,600            | 1,75,120     | <u>5,69,720.00</u>         |
| <b>Grand Total</b> |                 |                     |              | <b><u>15,72,171.00</u></b> |

9.1 There is no evidence from the Revenue suggesting that this income was fully utilized for expenses, investments, or other purposes. Similarly, while the assessee has not maintained detailed records or accounts, the possibility of sufficient cash in hand cannot be ruled out. The Revenue has also not brought forward any details of household or other personal expenses that might suggest the depletion of cash resources. In the absence of such evidence, I am of the considered opinion that the benefit of the doubt must go to the assessee.

9.2 Regarding the case law referred by the learned DR, I note that it was the onus upon the revenue to justify based on the documentary evidence that the impugned cash as represented by the income declared by the assessee in the earlier years has been used for any other purpose such as personal expenses or the investment. In my view the assessee discharged the onus by contending that the cash deposits during the year was out of the current year and earlier income which is also evident from the income tax return discussed above. Thus, I'm of the view that the principles laid down in the cases referred by the learned DR are not applicable to the present set of the facts.

9.3 In light of the above, accordingly, I conclude that there was sufficient cash available with the assessee to justify the deposits made in

her bank account. I, therefore, direct the AO to delete the addition of ₹ 7,63,000/- made under Section 69A of the Income Tax Act, 1961. Hence, the ground of appeal of the assessee is allowed.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in court on 21<sup>st</sup> day of January, 2025

Sd/-

**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 21<sup>st</sup> January, 2025

/ vms /

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore