

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

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)  
&  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 54/GAU/2024  
Assessment Year: 2017-2018**

***Atele Vasa,.....Appellant  
Kohima,  
Midland Kohima Sardar,  
Nagaland, Pin Code No.797001  
[PAN:AKUPV8688B]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-1, Dimapur,  
Income Tax Office, Kalibai Road,  
Dimapur-797112, Nagaland***

**Appearances by:**

*Shri C. Roy, CA, appeared on behalf of the assessee*

*Shri Kausik Ray, JCIT, appeared on behalf of the  
Revenue*

**Date of concluding the hearing: December 24, 2024  
Date of pronouncing the order: January 31, 2025**

**O R D E R**

**Per Duvvuru RL Reddy, Vice-President (KZ):-**

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 12<sup>th</sup> May, 2023 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual, who filed her return of income showing total income at Rs.27,695/-. The case was selected through CASS under complete scrutiny in order to examine the cash deposits during demonetization period. Notices under sections 143(2) and 142(1) of the Income Tax Act, 1961 were issued and served on the assessee, but the assessee did not comply with the notices.

3. Notice under section 133(6) of the income Tax Act, 1961 was issued to the Branch Manager, Axis Bank, Kohima requisitioning details of bank statements of the assessee. The Branch Manager accordingly complied to the above notice and submitted the Bank statements and account opening form of the assessee. Thereafter the ld. Assessing Officer issued another reminder to the assessee, but the assessee did not respond to the notice. On 15.11.2019, the ld. Assessing Officer issued a show-cause notice, but the assessee failed to respond to the show-cause notice. Thereafter ld. Assessing Officer passed the assessment order under section 144 of the Act assessing the income at Rs.30,97,500/-. The main allegation of the ld. Assessing Officer is that the assessee had made total cash deposits of Rs.30,97,500/- in her bank account maintained at Axis Bank, Kohima during demonetization period.

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

5. After considering the submission made by the assessee, the ld. CIT(Appeals) dismissed the appeal.

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

*(1) The addition of Rs. 30,97,500/- is treated as unexplained money and added to the total income of the assessee u/s 69A of the Income Tax Act, 1961 is based only on conjectures and surmised.*

*(2) The amount of Rs. 30,97,500/ is substantially from the sale proceeds of locally produced products which was duly declared in Vide ITR3 duly filed by the appellant vide acknowledgement number 197808870020917 dated 02.09.2017 and hence treating the same as unexplained money u/s 69A is not correct.*

*(3) The appellant being a person exempt from income tax u/s 10(26) and hence no benefit of the fact was provided that no regular books of accounts or vouchers were maintained by the appellant considering the fact that his total income is below the taxable limit once the provisions of Chapter III of the Act are applied Both the Ld. AO and the Honorable CIT(A) acknowledged the fact that the appellant was not aware of the Income Tax Procedures.*

*(4) Any tax on the income that is exempt u/s 10(26) is ultra vires and is liable to be deleted in entirety.*

*(5) That the appellant reserves the right to raise, alter, modify and delete any additional grounds.*

7. We have heard both sides. The main contention of the assessee is that the assessee made cash deposits out of her sale proceeds of local made products, which were duly declared in the ITR 3 and the same was filed by the appellant vide Acknowledgment Number 197808870020917 dated 2<sup>nd</sup> September, 2017. The ld. Counsel for the assessee further submitted that the income is exempt under section 10(26) of the

Act, therefore, the assessee is not liable to pay any tax under section 69A of the Act. He further submitted that in order to prove the eligibility of the assessee's income under section 10(26), the assessee has to prove that the income was generated which accrues or arises to the assessee from any source in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura or by way of dividend or interest, on securities. Therefore, he pleaded to delete the addition made by the ld. Assessing Officer, which was made under section 69A of the Act.

8. On the other hand, ld. Departmental Representative submits that the assessee failed to appear before the ld. Assessing Officer and also failed to prove the conditions stipulated under section 10(26) of the Act. Therefore, the ld. CIT(Appeals) has rightly dismissed the appeal and he pleaded to uphold the orders passed by the revenue authorities.

9. We have carefully perused the material available on record. The main contention of the assessee is that the assessee's income is exempt from tax under section 10(26) of the Act. For the sake of convenience and better appreciation of facts, we reproduce the section 10(26) of the Act, which reads as under:-

*“In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included (26) in the case of a member of a Scheduled Tribe as defined in clause (25) of Article 366 of the Constitution, residing in any area specified in Part I or Part-II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tribal or in the areas covered by Notification No. TAD/R/35/50/109, dated the 23<sup>rd</sup> February, 1951, issued by the Governor of*

*Assam under the proviso to sub-paragraph (3) of the said Paragraph 20 as it stood immediately before the commencement of the North-Eastern Areas (Re-organization) Act, 1971 (81 of 1971), or in the Ladakh region of the State of Jammu and Kashmir any income which accrues or arises to him.,-*

*(a) From any source in the areas, or States aforesaid, or  
(b) By way of dividend or interest on securities.*

10. After considering the section 10(26) of the Act, the burden lies on the assessee to establish that the income accrues or arises from any source in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura or by way of dividend or interest, on securities. According to the assessee, income was generated from the State of Nagaland and to prove that the assessee sold some local produced products and thereby she deposited an amount of Rs.30,97,500/- during demonetization period. To prove the fact, the assessee also filed a Trade License Certificate before us.

11. We have perused the Trade License Certificate issued by the Office of Kohima Municipal Council, Kohima, Nagaland. The license was issued on 16<sup>th</sup> April, 2019 and the license was valid upto 31<sup>st</sup> March, 2020 under License No. 2916. The impugned assessment year was 2017-18. Therefore, the Trade License, which was produced before the Tribunal was pertaining to assessment year 2018-19. Therefore, we have no hesitation to come to the conclusion that the assessee has miserably failed to explain the source for her cash deposit of Rs. 30,97,500/-. Hence, the grounds raised by the assessee are liable to be dismissed.

**12. In the result, the appeal filed by the assessee is dismissed.**

Order pronounced in the open Court on 31/01/2025.

Sd/-  
**(Rakesh Mishra)**  
**Accountant Member**

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

**Kolkata, the 31<sup>st</sup> day of January, 2025**

*Copies to :(1) Atele Vasa,  
Kohima,*

*Midland Kohima Sardar,  
Nagaland, Pin Code No.797001*

*(2) Income Tax Officer,  
Ward-1, Dimapur,  
Income Tax Office, Kalibai Road,  
Dimapur-797112, Nagaland*

*(3) Commissioner of Income Tax (Appeals);  
NFAC, Delhi;*

*(4) CIT - ;*

*(5) The Departmental Representative;*

*(6) Guard File*

*TRUE COPY*

*By order*

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

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