

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.244/NAG./2024 [E-APPEAL]
Assessment Year 2017-2018

Jyoti Nitin Chaporkar, Farshi Stop Jawal Vimal Nagar, Varsha Colony Road, Rukhmini Nagar, AMRAVATI - 444 602. Maharashtra. PAN ADKPC6034B	vs.	The Income Tax Officer, Ward-1, Aaykar Bhawan, Amravati ITO, Ambapeth, AMRAVATI. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Bhavesh Moriyani
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	23.01.2025
Date of Pronouncement :	05.02.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 20.02.2023, of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC"], Delhi, relating to assessment year 2017-2018.

2. Briefly stated facts of the case are that the assessee is an individual and derives income from milk

business. The assessee filed return of income on 31.03.2018 declaring total income of Rs.3,24,780/-. The case of the assessee has been selected for scrutiny under CASS and statutory notices u/sec.143(2) and 142(1) were issued and duly served upon the assessee. In response to the said notices, the Authorised Representative of the Assessee appeared before the Assessing Officer from time to time and produced books of accounts, bills and vouchers for verification. During the course of assessment proceedings, the Assessing Officer noted that assessee has deposited demonetized currency [Rs.500/- and Rs.1000/-] of Rs.10,26,380/- with The Amravati Merchants Co.op Bank Ltd., Amravati during the demonetization period. The Assessing Officer noted that as per the cash book submitted by the assessee, her cash-in-hand closing balance as on 08.11.2016 is at Rs.2,92,146/- whereas the assessee has deposited a sum of Rs.10,26,380/- and the excess cash in assessee's hands is of Rs.7,34,234/- which has been treated by the Assessing Officer as unexplained investment u/sec.69 r.w.s.115BBE of the Act and added to the total income of the

assessee being not satisfied with the explanation offered by the assessee. Similarly, the Assessing Officer noted that she had made purchases from Dinshaw's Dairy Foods Pt. Ltd., Nagpur which have been credited to the P & L A/c of Rs.6,43,17,188/- and the confirmations are shown at Rs.6,43,23,058/-. The Assessing Officer made the difference sum of Rs.5,870/- u/sec.69C r.w.s.115BBE of the Act. Thus, the Assessing Officer determined the total income of the assessee at Rs.10,64,884/- vide order dated 30.1.2019 passed u/sec.143(3) of the Act.

3. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A). Despite issuing several notices, the assessee had not filed any documentary evidence to substantiate her case with respect to the impugned additions made by the Assessing Officer. In absence of any satisfactory explanation from the side of the assessee, the learned CIT(A) confirmed the order of the Assessing Officer.

4. Aggrieved by the order of the learned CIT(A) the assessee carried the matter in appeal before the Tribunal.

5. During the course of hearing, Learned Counsel for the Assessee contended, *inter alia*, that the assessee is a milk vendor and falls under the essential commodities Act. The Government of India has allowed to accept the old ban currency vide notification of Ministry of Finance S.O.3408CE. However, the Assessing Officer without considering the contention of the assessee, made the impugned additions which have been confirmed by the learned CIT(A) too. He submitted that that the orders of the authorities below are unjustified, unwarranted and excessive and prayed that the impugned additions made in the hands of the assessee u/sec.69, 69C r.w.s.115BBE be deleted in the interest of justice.

6. The Learned DR on the other hand strongly relied on the orders of the authorities below. He submitted that the Assessing Officer made the impugned additions after examining the documentary evidences on record and that too the excessive sum and differential sum u/sec.69 and 69C r.w.s.115BBE of the Act. And in appeal, despite providing adequate opportunities to the assessee, the did not chose to

appear before the learned CIT(A) nor filed any documentary evidence to substantiate her case. The learned CIT(A), therefore, confirmed the order of the Assessing Officer in absence of any contrary material brought to his notice. He accordingly submitted that that the orders of the authorities below be confirmed.

7. I have heard the rival submissions of both the parties and perused the material on record. Admittedly, there is no dispute between the parties that the assessee is milk vendor falls under Essential Commodities Act. The Assessing Officer made the impugned additions on account of differential sums arising out of milk business and purchases made for doing such business. As such, it is clear that the assessee furnished documentary evidence(s) in support of her claim for doing milk business and authorities below being not satisfied with the explanation offered by the assessee made the impugned additions. I note that the milk business of the assessee is a daily need for the general public at large and, therefore, the Government was specifically allowed the milk business vendors to accept demonetized currency notes and,

as such, the milk vendors are exempt from income tax for the deposit of demonetized currency notes. In view of this factual position, I find force in the arguments advanced by the Learned Counsel for the Assessee that the government allowed to accept the old ban currency for the persons involved in doing business fall under Essential Commodities Act. I, therefore, delete the impugned addition of Rs.7,34,234/- and Rs.5,870/- made in the hands of the assessee u/sec.69 and u/sec.69C r.w.s.115BBE of the Act, respectively. Since the charging of interest u/sec.234A, 234B and 234C are consequential in nature, the grounds raised by the assessee are dismissed. Accordingly, the grounds raised by the assessee are partly allowed.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 05.02.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 05th February, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur SMC-Bench, Nagpur
6.	Guard File.

//By Order//

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Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.