

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.3004/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Zeenathunnisa, 1/169-6, 5 th Cross, Rajaji Nagar, Kattiganapalli, Krishnagiri-635 001. [PAN: AAAPZ 3930 C] (अपीलार्थी/Appellant)	v.	The ITO, Ward-1, Krishnagiri. (प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.P.M. Kathir, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Dr.I. Roopa, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	27.02.2025
घोषणाकीतारीख /Date of Pronouncement	:	23.04.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeal)/Addl./JCIT(A)-1, (hereinafter referred to as "the Ld.CIT(A)"), Jaipur, dated 13.11.2024 for the Assessment Year (hereinafter referred to as "AY") 2017-18 confirming addition of Rs.12.10 lakhs u/s.69 of the Income Tax Act, 1961 (hereinafter referred to as "the Act")



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2. Brief facts are that the assessee is a retired Professor, who is earning income only from pension. The assessee had filed her return of income (RoI) on 24.08.2017 for AY 2017-18 declaring total income at Rs.6,14,920/- which return was selected for scrutiny under CASS to examine the source of Specified Bank Notes (SBNs) deposited in bank account during demonetization period. The AO is noted to have issued notices to the assessee, asking her to explain the *nature and source* of cash deposits to the tune of Rs.14,60,000/-. The assessee is noted to have explained it as out of her withdrawals of Rs.40,95,000/- between 16.05.2014 to 03.10.2016. According to the assessee, she kept an amount of Rs.15 lakhs at her residence as reserve for emergency considering her past medical history [between year 2001-2010]. And since demonetization was declared suddenly on the night of 08th November, 2016, she had no other alternative but to deposit the reserve/SBNs on 11th to 14th November, 2016 to the tune of Rs.14,60,000/-. In order to show that her explanation was bona fide, she brought to the notice of AO/CIT(A) that she was a Retired Professor and Head of Department of Bio-Chemistry in SIET College and was drawing salary of more than Rs.1 lakh per month before her retirement in 2013; and thereafter, she was drawing pension of more than Rs.61,000/- per month; and during the relevant assessment year, has drawn Rs.7,64,916/-, out of which, she has shown in her RoI as her income an



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amount of Rs.6,14,920/-. In order to prove that she had kept as reserve an amount of Rs.15 lakhs for medical emergencies, she had shown to have withdrawn an amount more than Rs.40 lakhs [Rs.40.95 lakhs], and that she had medical history of undergoing treatment in hospitals between year 2005 to 2010; and submitted her treatment records up to 2010. However, the AO is noted to have accepted in part the explanation of assessee i.e. the AO accepted the explanation of assessee in respect of Rs.2.50 lakhs, but didn't believe the explanation given by the assessee regarding the nature and source of Rs.12,10,000/-, meaning, he accepted the explanation of the assessee about the nature and source of Rs.2.50 lakhs as out of the earlier withdrawals from the bank, whereas he rejected the explanation regarding the balance amount of Rs.12.10 lakhs on the reason "*the assessee being an educated lady can't be expected to keep such a large amount in her house; and nowadays all the hospitals are well facilitated with digital and cashless payments for accepting their fees*". And then the AO interestingly has concluded by taking note of assessee's earlier medical history and held that assessee might have spent 90% of Rs.40.95 lakhs withdrawn by her, and therefore, added Rs.12.10 lakhs u/s.69 of the Act.

3. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who on similar lines decided by the AO confirmed the action of the AO and dismissed the appeal of the assessee.



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4. Aggrieved, the assessee is in appeal before this Tribunal.

5. We have heard both the parties and perused the material available on record. We note that the assessee is a Retired Professor, Head of Department of Bio-Chemistry in SIET College and she is noted to have retired in the year 2013; and after that, she has been receiving pension of more than Rs.7 lakhs per annum and returned income in the relevant year to the tune of Rs.6,14,920/-. The assessee is noted to have some medical history [refer medical documents filed before the AO from the year 2005-2010] which led her to keep at her residence an amount of Rs.15 lakhs as reserve to meet any eventuality in respect of medical emergencies for her as well as her husband [*her husband has his own business and is earning money from Xerox machines and computer data entry KIOSK which is utilized mainly for the household expenses*] and that her (the assessee's) adopted daughter has been married in 2007; and therefore, assessee didn't incur much expenses after retirement though she had undisputedly withdrawn an amount of Rs.40.95 lakhs between 16.05.2014 and 03.10.2016. Therefore, the assessee when asked by the AO to explain the nature and source of Rs.14.60 lakhs deposited during demonetization period, explained the aforesaid facts and stated the source of SBNs was from earlier withdrawals i.e. out of withdrawals of Rs.40.95 lakhs. The AO is noted to have accepted the explanation in respect of Rs.2.5 lakhs deposited during demonetization period but



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refused to accept the balance amount of Rs.12.10 lakhs on the specious plea that the assessee might have expended the amount of Rs.40 lakhs since she was having medical history and also by observing that now-a-days, hospitals are accepting digital mode of receiving payments and therefore, there was no need to keep Rs.14 lakhs in her house; and the Ld.CIT(A) on the same reasoning, has confirmed the action of making addition of Rs.12.10 lakhs u/s.69 of the Act. We don't countenance this action of the Ld.CIT(A)/AO for the simple reason that the assessee in this case has discharged her burden to prove the nature and source of the amount/SBNs deposited to the tune of Rs.14.60 lakhs by showing that this was sourced from her withdrawal from 2014 onwards to the tune of Rs.40.95 lakhs. The AO is noted to have accepted the nature and source of Rs.2.50 lakhs from the withdrawals but refused to accept the explanation regarding the balance amount merely on the basis of surmise and conjectures.

6. It is settled position of law that when the assessee has given an explanation regarding source of the credit/currency, which is plausible/probable from prudent persons point of view, then, it can't be rejected by the AO without having any material to rebut the plausible explanation given by assessee. The Hon'ble Supreme Court in the case of Sreelekha Banerjee & Ors. v. CIT reported in [1963] 49 ITR 112 (SC), observed that "the department could not act unreasonably and reject that



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explanation to hold that it was income. If, however, the evidence was unconvincing then such rejection could be made. *The department cannot by merely rejecting unreasonably a good explanation, convert good proof into no proof.*

7. The assessee is noted to have filed the bank statement and also the relevant documents to prove that her husband is also earning income from the business of KIOSK data entry which income was primarily used for running the household expenses, and thus, assessee has shown that she kept as reserve Rs.14.60 lakhs for medical emergencies out of her withdrawal of Rs.40 lakhs, since there was no major expenses incurred by her. In this regard, it is noted that assessee has placed before the AO the primary facts to prove the nature and source of SBNs, which has not been found by him to be incorrect or false. Therefore, the action of the AO to make addition u/s.68 of the Act, is not acceptable for the reasons stated (infra).

8. The assessee is noted to have proved by adducing medical evidence of her earlier medical history [2005-2010] and then she has made out a case that she may require Rs.15 lakhs to meet any medical emergencies and thus, has discharged her burden to that extent. However, the AO is noted to have initially observed that cash is not necessary for treatment now-a-days, but gave an interesting finding that considering her earlier



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medical history, she might have expended the amount which was withdrawn which finding to justify addition is noted to be ex-facie contradictory in nature.

9. In the light of the aforesaid discussion and the judicial precedents on the subject, it is noted that when assessee proves that she had on relevant date a large sum of money sufficient to cover the deposit of cash in the bank during demonetization period, this Tribunal/Hon'ble Courts, in the absence of something which showed that the explanation was inherently improbable has accepted the explanation that the assessee had such amount in SBNS which was deposited in the bank account. In other words, assessee was held to have prima facie discharged the initial burden upon him/her which was upon him in such cases. Moreover, once the AO has accepted the genuineness of the source of Rs.2.5 lakhs as source from the withdrawals of Rs.40 lakhs, the AO can't be expected to reject part of the explanation [i.e. Rs.12.10 lakhs as source from the very same source viz., withdrawal of Rs.40 lakhs] without cogent reason or adducing any material to show that the withdrawn amount of Rs.40 lakhs had been spent by assessee or invested in immovable/movable assets of which is not the case of the AO. Therefore, the action of the AO rejecting in part, the explanation given by the assessee can't be accepted. However, we are of the view that the explanation which was held to be reasonable [by the AO] as to a part, must be good for the whole, because



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there is no material on which it could be held that the balance constituted income from some undisclosed source to distinguish case about the part rejected from the part accepted. In the light of the aforesaid discussion, we are of the view that the assessee has prima facie discharged her burden about the source of Rs.12.10 lakhs, which has not been rebutted by the Ao/Ld.CIT(A) which is merely based on no evidence rather it is based on conjectures, surmises and suspicion; and furthermore is vitiated by failure of lower authorities in not taking into consideration relevant materials bearing on the fact in issue. Thus, the assessee's appeal is allowed and the addition made u/s.69 of the Act of Rs.12.10 is directed to be deleted.

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

Order pronounced on the 23rd day of April, 2025, in Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 23rd April, 2025.

TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF