

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.3130/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Kumar Naveenraj, 2/204-2, Chinnamudalaipatti, Mudalaipatti (PO), Namakkal Taluk & Namakkal District-637 003. [PAN: AUXPN 7066 L]	v.	The ITO, Ward-2, Namakkal.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.G. Akash, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.R. Raghupathy, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	20.02.2025
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 (Appeals)/Addl./JCIT(A)-7, (hereinafter referred to as "the Ld.CIT(A)"), Mumbai, dated 10.10.2024 for the Assessment Year (hereinafter referred to as "AY") 2017-18.

2. The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the addition made u/s.69A of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by the AO in respect of



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Specified Bank Notes (SBNs) Rs.4,32,000/- deposited by the assessee during demonetization period.

3. The brief facts are that the assessee filed its return of income (RoI) on 26.07.2017 declaring total income of Rs.3,09,710/-. The AO noted that during the demonetization period, the assessee had deposited SBNs to the tune of Rs.4,32,000/- in his SBI Bank A/c, Namakkal. The AO asked the assessee to explain the nature and source of the SBNs and the assessee brought to his notice that he is a service provider to transport operators. And explained that transport operators used to give him cash, for remitting road-tax on behalf of them in the Regional Transport Office (RTO), for which he is given a small fees, which was his income. According to assessee, the cash/road-tax, given by transport operators are deposited in his bank account and then remitted in the office of the RTO on behalf of them, for paying Road Tax, FC Charges and other related taxes. For this service rendered to the transport operators, the assessee only receives service commission of Rs.50 to Rs.100 per transaction. Thus, the assessee received the gross commission during the year to the tune of Rs.3,09,710/- only, which was offered to tax. And thus, brought to the notice of the AO that the source for cash deposited in his bank account [during demonetization period] were the payments collected from Transport Operators for paying Road Tax, FC Charges, fees for license and renewal etc. In order to buttress his contention, the



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assessee filed details of cash deposits, comparative chart of cash deposits made during the earlier years [i.e., F.Y.2015-16 and cash deposit made during the F.Y.2016-17 relevant to the year under consideration A.Y.2017-18]. And further brought to the notice of the AO that the SBNs/cash deposited of Rs.4,32,000/- during the demonetization period (i.e., 09.11.2016 to 31.12.2016) in his SBI bank account was for making the quarterly tax payments to the RTO office, because, the due date for paying the quarterly tax was 15.11.2016, and thus the Appellant/assessee received the cash before 09.11.2016 for the forthcoming quarterly tax payment before the RTO. The assessee filed chart before the Ld.CIT(A) which shows the comparative cash deposits for the earlier years which is found placed at Page Nos.17-18 of the Paper Book, which is noted as under:

(a) Total Cash deposits in Bank in Financial Year 2015-16	Rs.2,01,55,900/-
(b) Total Cash deposits in Bank from 01.04.2015 to 08.11.2015	Rs.1,36,85,400/-
(b) Total Cash deposits in Bank from 09.11.2015 to 31.12.2015	Rs.31,03,500/-
(a) Total Cash deposits in Bank in Financial Year 2016-17	Rs.2,37,35,800/-
(b) Total Cash deposits in Bank from 01.04.2016 to 08.11.2016	Rs.1,82,72,700/-
(b) Total Cash deposits in Bank from 09.11.2016 to 31.12.2016	Rs.4,32,000/-

4. And the Ld.AR submitted that on mere perusal of the aforesaid chart would show that the assessee in the earlier assessment year has deposited cash to the tune of Rs.2.01 Crs. and cash deposited during the period between November, 2015 and December, 2015 was Rs.31.03



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lakhs, whereas, in the relevant AY 2017-18 is concerned, the total cash deposited was to the tune of Rs.2.37 Crs. and cash deposited during the demonetization period was only to the tune of Rs. 4.32 lakhs. Thus, it was submitted that deposit of Rs 4.32 lakhs was quite low, when compared with the cash deposit in the earlier years. It is noted that assessee has deposited paltry amount of Rs.4.32 lakhs when compared to Rs.31.03 lakhs in the earlier AY 2016-17. From the chart supra, the Ld AR, showed us that cash deposited in the bank account in the earlier year is comparatively same in this year also and therefore, he contended that the assessee's explanation ought to have been accepted by the AO/Ld.CIT(A). Further, according to the Ld.AR, the addition u/s.69A of the Act was not warranted since he was not the owner of the cash since the money belonged to the transport operators. Further, according to the Ld.AR, SBNs ceased to be a legal tender only from appointed day i.e. 31.12.2016 as per sec.2(1)(a) of the Act r.w.s.3 of the Specified Bank Notes (Cessation of Liabilities) Act, 2017. Therefore, according to the Ld.AR, the impugned action of the Ld.CIT(A) is bad in law.

5. Per contra, the Ld.DR relied on the orders of the Ld.CIT(A)/AO and doesn't want us to interfere with the order of the authorities below.

6. We have heard both the parties and perused the material available on record. The assessee is noted that to be a service provider to transport



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operators for a small commission. It is noted that the transport operators used to give the assessee, road tax, FC charges and other related taxes for remitting tax on their behalf in the RTO office; and for the services rendered, assessee was paid small commission of Rs.50-100 per transaction. And the commission income is noted to have been offered as his income to the tune of Rs.3,09,710/-. On 08.11.2016, few transport operators had given cash to assessee to the tune of Rs.4,32,000/- for remitting quarterly tax to the RTO, since the date for paying the tax was on 15.11.2016. Thus, according to the assessee, cash in hand/SBNs as on 08.11.2016 was Rs.4,32,000/- which was deposited during the demonetization period, meaning, Rs.4.32 lakhs was road-tax belonging to the transport operators, which was deposited in his bank-account and later remitted in RTO and the assessee when asked to prove the nature and source of SBNs, had filed before the AO the list of transport operators, and the AO having perused the evidences filed by the assessee, accepted the fact that the assessee received SBNs of Rs.4,32,000/- from his customers/clients. But, he adversely viewed the deposit of SBN's in his bank-account only because SBN's were received by the assessee after 09.11.2016 [i.e. after demonetization has been declared by the Government of India]. Therefore, he added Rs.4,32,000/- u/s.69A of the Act. On appeal, the Ld.CIT(A) has confirmed the action of the AO. We don't countenance the action of the



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authorities below since the assessee was able to show that assessee was a service provider to transport operators and explained the modus-operandi that the transport operators/clients used to give him the road tax, FC charges, etc., who in turn, used to remit the taxes on their behalf [transport operators] at RTO, for a commission of Rs.50-100 per transaction. The assessee is noted to have offered an amount of Rs.3,09,710/- as his income in his RoI, which included the commission from remitting Rs.4.32 lakhs/SBN's in the bank, which income is noted to have been accepted by the AO. And when asked by the AO about the nature and source of SBN's, it was explained by the assessee that Rs.4,32,000/- was closing balance of Road-Tax & other taxes as on 08.11.2016 and the source of the amount/tax was transport-operators/clients, which was for remitting the quarterly tax on their behalf; and provided the relevant evidences to substantiate it. But the AO brushed aside the same and was of the view that the assessee had collected the amount/SBNs after 09.11.2016, which finding of fact is perverse since the assessee has been able to discharge his burden to prove that the cash on hand as on 08.11.2016 was to the tune of Rs.4,32,000/- and the details were also furnished [and corroborates by paying quarterly tax to the RTO]. Therefore, the addition made u/s.69A of the Act is not legally sustainable; and moreover, it is noted that the commission of Rs.3,09,710/- offered in RoI by assessee, includes income



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for services rendered for remitting Rs.4,32,000/- in the RTO. Hence, the action of the AO to make separate addition u/s.69A of the Act of Rs.4,32,000/- was not warranted. Moreover, the assessee has filed the comparative details of cash deposited in his bank account for AY 2016-17 & 2017-18. From the perusal of the same, we find that there is no abnormal deviation of cash deposits in the relevant assessment year when compared with the earlier assessment year. As noted in the earlier year during 09.11.2015 to 31.12.2015, the assessee had deposited Rs.31,03,500/-, whereas, in the year under consideration, the assessee had deposited only Rs.4,32,000/-, and therefore, we find that the cash deposits when compared to earlier year is very low. Even though, the assessee's line of activity to earn commission income was brought to the notice of the AO [i.e. the assessee was collecting taxes from the transport operators for remitting it in the RTO on behalf of the transport operators, and for the services rendered, the assessee was getting small commission] the AO without disproving facts had drawn adverse view, which action can't be countenanced. Further, there is no evidence to show that the assessee had any other source of income and the analysis of the earlier/relevant assessment year reveals that there is no significant change in the pattern of cash deposits when compared with that of the demonetization period. The AO has not disputed the claim of the assessee that the nature and source of the deposits were the taxes from



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the transport operators, and the only fault he attributed against the assessee was for collecting/acquiring cash deposits after 09.11.2016 which finding of fact is perverse, because there is no evidence to substantiate such finding.

7. The only other reason given by the AO to make addition u/s.69A of the Act was that assessee could not have transacted/received SBNs during demonetization period by presumably relying on the notification issued by the Government of India. No doubt Specified Bank Notes of Rs.500/- & Rs.1,000/- has been withdrawn from circulation from 09th November, 2016 onwards. However, the Government of India and RBI is noted to have issued various notifications and SOP's to deal with specified bank notes. Further, the RBI allowed certain category of persons to accept and to deal with specified bank notes up to 31st December, 2016. Further, the specified bank notes (cessation of liability) Act, 2017, also stated that from the appointed date no person can receive or accept and transact specified bank notes, and appointed date has been stated as 31st December, 2016. Therefore, there is no clarity on how to deal with demonetized currency from the date of demonetization to 31st December, 2016. Therefore, under these circumstances, some persons continued to accept and transact the specified banknotes and deposited into bank accounts. Therefore, merely for the reason that there is a violation of certain notifications/GO issued by the Government in transacting with



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specified bank notes, the genuine explanation offered by the assessee towards source for cash deposit cannot be rejected, unless the Assessing Officer makes out a case that the assessee has deposited unaccounted cash into bank account in specified bank notes.

8. Therefore, from overall facts of the case, we find that the assessee was able to discharge his burden to prove the nature and source of SBNs deposited during demonetization period which was in his possession before 08.11.2016, and for the aforesaid other reasons, we are of the view that the addition u/s 69A was unwarranted in the aforesaid facts; and therefore, we direct the deletion of Rs.4,32,000/-.

9. 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. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF