

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No.1389/PUN/2023
Assessment Year : 2017-18

Mrs. Shantabai Jasraj Lodha
Shirdi Irrigation Banglow, Rahata,
Shirdi, Ahmednagar – 423109

PAN: ALIPL4408L

... Appellant

Vs.

The ITO,
Ward 1, Ahmednagar

... Respondent

Assessee by : None

Respondent by : Shri Sourabh Nayak

Date of Hearing : 16-01-2024

Date of Pronouncement : 16-01-2024

ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of the National Faceless Appeal Centre (NFAC), Delhi dated 17-10-2023 for the Assessment Year 2017-18 as per the grounds of appeal appearing hereinafter.

The grounds of appeal are as follows:

- 1. On the facts and circumstances of the case and in law the Respected CIT(A) – NFAC erred in confirming additions made by Ld. Assessing Officer without considering the fact that the assessee had the sufficient proof to prove the source of Rs.20,00,000 deposited into her bank account. Hence, the additions made in the assessment order which was bad in law may please be deleted.*
 - 2. On the facts and circumstances of the case and in law the Respected CIT(A) – NFAC erred in confirming additions made by Ld. Assessing Officer without appreciating the submission made by the assessee. Hence, the additions made in the assessment order may please be deleted.*
2. Despite service of notice, none appeared on behalf of the assessee nor is any application for adjournment filed by the assessee.

3. In this case there is cash deposit during demonetization period amounting to Rs.20 lakhs by the assessee which was made from cash withdrawals and the said cash withdrawal was made for the purpose of purchasing a particular property. It is the case of the Department that the assessee could not provide any evidences regarding failure to purchase such property and no evidences were given regarding source of such cash deposit of Rs.20 lakhs during the demonetization period. It was contended by the assessee before the AO as follows:

“5. In response to this, the assessee has filed online reply on 23.09.2019 and stated is as under:-

MY husband sold HUF agricultural land to Saibaba Sansthan Trust Shirdi in the year 2006-07 and he had filed I.T. return for that period and paid capital gain tax and also I.T. department completed scrutiny for that period. After sale we have made investment in plot purchases and balance amount was kept in fixed deposits. After death of my husband on 07.05.2019 the fixed deposit and saving balances of bank transfer to my account on 20.06.2016 I had withdrawn Rs.19,70,000/- to purchase plot or agricultural land but it was not possible for me due to high prices. So I deposited same amount including addition of Rs.30,000/- out of my saving account on 22.11.2016.”

4. The Id. AO did not accept the submissions of assessee and on further verification of Bank of Maharashtra's statement, he found out that there was some cash deposit of Rs.16.36 lakhs on 08.06.2016 and on 09.06.2016 and there was withdrawal of Rs.19.70 lakhs. That further on 12.11.2016 an amount of Rs.20 lakhs was deposited and the same amount was transferred to M/s. Vardhaman Automobiles, Aurangabad through RTGS on 22.11.2016. That accordingly, as per various reasons appearing in the assessment order, the AO made the addition in the hands of assessee.

5. That when the matter went before the Id. CIT(A)-NFAC, he confirmed the findings of AO and upheld the addition by observing at para 5.2 as follows:

*“5.2 **Ground relating to Addition of Rs.20,00,000/-:** I have considered the submission of the appellant filed during the course of appellate proceedings wherein she stated that the cash deposit during the demonetization period amounting to Rs.20,00,000/- was made from cash withdrawal and the cash withdrawal was made for the purpose of purchasing the property. But the*

appellant was not able to purchase property and hence, she deposited the cash amounting to Rs.20,00,000/- during the demonetization period.

I have also perused the assessment order wherein the AO held that the assessee did not give any proof of his/her intention to purchase the property for which cash was withdrawn.

A perusal of documents filed by the assessee highlights further gaps & anomalies:

- (1) The assessee has shown proof of use of Rs.20 lakhs already deposited in cash by her which is irrelevant to the issue being discussed here.*
- (2) Proof of source of Rs.19,70,000/- deposited in cash by her has not been submitted evidence. Only mere narration.*
- (3) The onus squarely rests on the assessee to discharge which she has failed to do. Hence, there is no documentary evidence to corroborate her claim.*

In view of the above, it is clear that the appellant deposited cash amounting to Rs.20,00,000/- during the demonetization period and the SBNs after 08.11.2016 were not legal tender. There is not enough evidence submitted by the appellant to prove that the cash withdrawal was made to purchase the property. Coming to the substantive part of addition, it is seen that appellant has not furnished any corroborative evidence to discharge its claim. The AO has done considerable due diligence to establish his claim. The assessee was asked for substantiating her contention with evidence at the time of appellate proceedings also. However, no evidence has been filed by the appellant.”

6. I have heard the Id. DR and considered the facts and circumstances and the materials / documents on record. I find that the Revenue authorities have done verification of Bank of Maharashtra's statement which ultimately revealed that some Rs.20 lakhs was given to M/s. Vardhaman Automobiles, Aurangabad which transaction is not the issue in the present case. That what is the veracity and sanctity of the submissions made by the assessee before the AO, no verification or findings regarding the genuineness of submissions made by the assessee has been spelled out either in the order of AO nor in the order of Id. CIT(A)-NFAC. The assessee has said that after death of her husband, there were certain FD and savings balance which was transferred to her account from the account of the husband and from there, she had withdrawn Rs.19.70 lakhs to purchase a plot of agricultural land, which later on did not materialize and that she had deposited the same amount back into her savings account on 22.11.2016. These facts were not disputed by the Department nor any findings

were given specifically either by the AO or by Id. CIT(A)-NFAC. The Revenue has simply dismissed the veracity of submission made by the assessee stating it to be a mere narration. But it has to be found out whether the source of money is from assessee's husband account or not and whether the same amount was again deposited in her account. I am of the considered view in the interest of justice, that there needs to be detailed factual verification and examination of the contents of the submissions made by the assessee before the Department. That for the said exercise, I set aside the order of Id. CIT(A)-NFAC and remand the matter to the file of AO for complete verification of the submissions made by the assessee in this regard and come out with a speaking order complying with the principles of natural justice. The grounds stands allowed for statistical purposes.

7. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced in the open Court on this 16th day of January, 2024.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, the 16th January, 2024
GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

1	Draft dictated on	16-01-2024	Sr.PS/PS
2	Draft placed before author	16-01-2024	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
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