



**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN CIRCUIT BENCH: DEHRADUN**

**BEFORE, SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.36/DDN/2022
(Assessment Year: 2017-18)**

Sh. Chaudhary Mange Ram Panwar, Saket-170, Purvi Amber Talab, Roorkee, District- Haridwar, Uttrakhand	Vs	Income Tax Officer, Ward-1(3)(4), Roorkee
PAN – BQEPF1872J		
(Appellant)		(Respondent)

Appellant By	Sh. Tilak Raj, Advocate
Respondent by	Smt. Poonam Sharma, Addl. CIT
Date of Hearing	19.06.2023
Date of Pronouncement	23.06.2023

ORDER

This is an appeal against the order dated 13.05.2022 passed by National Faceless Appeal Centre (NFAC), Delhi, pertaining to assessment year 2017-18.

2. Though, the assessee has raised several grounds of appeal before us, we find that the only effective issue to be decided in this appeal is as to whether learned Commissioner of Income Tax

(Appeals) [hereinafter referred to as 'CIT(A)'] was justified in partially confirming the addition made on account of cash deposits during the demonetization period.

3. We have heard the rival submissions and perused the materials available on record. The assessee is an agriculturist and had filed his return of income on 06.11.2017, declaring income of Rs.3,16,230/- and agricultural income of Rs.9,50,000/- for the assessment year 2017-18. A sum of Rs.13,17,500/- was deposited in cash on 12.11.2016 by the assessee with State Bank of India, Gudgajpur Branch in Kisan Credit Card (KCC) account of the assessee in old demonetized currency. The explanation given by the assessee for the said source was not accepted by learned Assessing Officer and the addition made in the assessment, treating the cash deposit in bank account as unexplained money under section 69A of the Act.

4. We find that the learned CIT(A) has accepted the fact that the assessee owns 106 bighas of agricultural land in village Chandaheri and cultivates sugar, wheat and other agricultural products. The learned CIT(A) has also accepted the fact that the assessee uses

tractor and agricultural implements to carry out his agricultural operations. The various sources for explaining the cash deposits were dealt with by the learned CIT(A) in detail. Learned CIT(A) restricted the addition to Rs.7,67,000/- after giving relief of Rs.5,50,000/-. Against this order, only assessee is in appeal. Let us take each and every source explained by assessee one by one as under:

Sale of car

5. It is not in dispute that the assessee owns a car bearing registration No.UK08Y1001, which was sold during the year on 05.06.2016. This sale has happened 5 months prior to the announcement of the demonetization by the Government. The assessee sold his car for Rs.6,50,000/-. This sum of Rs.6,50,000/- is available as a cash source for the assessee explaining the cash deposit.

Sale of Poplar Trees

6. The assessee claimed that he had sold 727 Poplar trees to Sh. Prakash for Rs.6 lakhs for which photocopy of the receipt was filed before the learned Assessing Officer. The learned Assessing Officer

asked the assessee to produce Sh. Prakash in person for examination, which was not complied with by the assessee. The assessee also furnished copy of Lekhpal Report before learned Assessing Officer to substantiate the sale of Poplar trees. Since, the assessee could not substantiate the receipt in cash of Rs. 6 lakhs from Sh. Prakash out of the sale of Poplar trees, the lower authorities had disbelieved the said cash source available with the Assessing Officer. In this regard, we hold that that there is no dispute with regard to the fact that assessee owns 106 bighas of agricultural land cultivating sugar, wheat and other agricultural products. It is not in dispute that the assessee has furnished the Lekhpal report. The contention of the assessee is that he has received a sum of Rs. 6 lakhs on 20.10.2016 in cash from Sh. Prakash towards sale proceeds of 727 Poplar trees. It is not in dispute that the assessee has furnished a photocopy of the receipt from Sh. Prakash. We find that the assessee has also furnished affidavit duly notarized before the learned CIT(A) affirming the fact that the Poplar trees were disposed of during the year by him. This affidavit is enclosed in page 7 of the paper-book. The photocopy of

the receipt given by Sh. Prakash is enclosed in page 9 of the paper-book. We further find that the assessee has also written a letter dated 10.10.2017 to the Tahsildar intimating the fact that he has cut the Poplar trees in 2016, and received Rs. 6 lakhs and also requested the Tahsildar to depute a person for inspection of the land where the Poplar trees were originally situated and were cut. Pursuant to this request, learned Tahsildar has also furnished his report on 16.10.2017. All these facts collectively prove that the sale of Poplar trees had indeed been made by the assessee for Rs. 6 lakhs. It is pertinent to note that the sale consideration of Rs.6 lakhs received by the assessee in cash is not disputed. What is disputed is whether the assessee had sold Poplar trees or not. The aforesaid facts clearly prove that the assessee had indeed sold poplar trees. Merely because the assessee is not able to produce Sh. Prakash (buyer of the Poplar trees), transaction carried out by the assessee cannot be disputed or suspected. It is a fact that the assessee has declared 9,50,000/- as agricultural income in the return of income and these are also reflected in the affidavit furnished by him before the learned CIT(A). Hence, the cash source

disclosed by the assessee for the sum of Rs. 6 lakhs towards sale of poplar trees is to be accepted as the source available for explaining the cash deposit.

Sale proceeds of Crop sold in October 2016

7. The assessee explained that he had received sale proceeds of Rs.3.5 lakhs on sale of agricultural crops in October 2016. As stated earlier, it is not in dispute that the assessee is owning 106 bighas of agricultural land and cultivating sugar cane, wheat and other agricultural produces. It is also not in dispute that the assessee owns tractor and other agricultural implements for usage in his agriculture operations. As against the agricultural income declared by the assessee for a sum of Rs.9,50,000/-, learned CIT(A) restricted the same to Rs. 2 lakhs, based on agricultural income declared in immediately preceding year at Rs.1,52,800/-. In our considered opinion, on a conservative basis, even if this sum of Rs.2 lakhs is taken together with the aforesaid two receipts of Rs.6,50,000/- on sale of car and Rs.6 lakhs on sale of Poplar trees, this would explain the entire cash deposits made by the assessee, which is the subject matter of dispute.

Old Personal Savings

8. The assessee claimed old personal savings of Rs.1,17,500/- as a cash source available for explaining the cash deposit, which was accepted by learned CIT(A) to the extent of Rs.1 lakh. Even, this is taken together with the aforesaid three receipts of Rs.6,50,000/-; 6,00,000/-; and Rs.2,00,000/-, it would explain the entire cash deposits by the assessee during the demonetization period. Hence, on merits, the entire cash deposits stands proved with proper source.

9. It is also crucial to note that preponderance of probability theory would go in favour of the assessee in the instant case. The predominant income available with the assessee is only the agricultural income. No other source of income is brought on record by learned Assessing Officer and it is not in dispute that the assessee is not engaged in any business or profession. The source of income in any manner whatsoever could only emanate from agricultural income. Hence, the overall explanation given by the assessee for explaining the cash deposits as emanating out of the

sale of car and agricultural receipts need to be accepted. There is no other source available with the assessee which would have enabled him to earn income.

10. In view of the aforesaid observations, we direct the learned Assessing Officer to delete the addition made in respect of cash deposits made during the demonetization period in demonetized currency. Accordingly, grounds raised by the assessee are allowed.

11. In the result, the appeal of the assessee is allowed.

Order pronounced in Open Court on 23rd June, 2023

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 23/06/2023

RK/Sr.PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI
(Dehradun Circuit Bench, Dehradun)