IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**
and
THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

T.C.A.No.172 of 2024

Logamaheshwara ... Appellant

Vs.

The Income Tax Officer,
Ward-11(1),
Trichengode. ... Respondent

PRAYER : Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal 'A' (SMC) Bench, Chennai dated 06.03.2024 in I.T.A.No.1312/CHNY/2023 for the assessment year 2009-10.

For Appellant	:	Mr.I.Dinesh
For Respondent	:	Mr.J.Narayanaswamy Senior Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN,J.)**

This tax appeal is directed against the impugned order dated 06.03.2024 passed by the Income Tax Appellate Tribunal in ITA.No.1312/CHNY/2023 for the assessment year 2009-10.

2. By the impugned order, the appeal filed by the Appellant in ITA.No.1312/CHNY/2023 has been partly allowed and partly rejected.

3. Operative Portion of the impugned order reads as under:-

> *"7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Although, the appellant claims to have earned agricultural income, but no evidence has been filed before the Assessing Officer and Id. CIT(A). Even before us, the Ld. Counsel for the assessee has expressed his inability to submit any details with regard to extent of land holding, agricultural activities carried out by assessee and income generated from agricultural activities. The appellant has also failed to prove money lending business activities with necessary evidences. Therefore, we are of the considered view that the assessee could not furnish sufficient evidences before the Assessing Officer and the Id. CIT(A) to*

explain source for cash deposits, except stating that he was having opening cash in hand at Rs. 9,00,000/- and source for cash deposits is out of opening cash in hand and realization of sundry debtors. At the same time, the Assessing Officer and the Id. CIT(A) could not adduce any reasons for not considering the explanation of the assessee with regard to opening cash in hand of Rs. 9,00,000/-. Although, the appellant could not file necessary evidences, the possibility of keeping opening cash in hand out of agricultural income declared for last two financial years cannot be ruled out. The assessee has filed ITRs for last two financial years and as per ITRs filed by the assessee, the assessee has declared about Rs. 6,00,000/- agricultural income for two assessment years. The assessee has not declared any other income in the return of income filed for last two financial years. ars. Assuming for a moment, the assessee derives agricultural income at Rs. 6,00,000/-, it cannot be said that the assessee has saved entire agricultural income without spending for his day-to-day expenses. Therefore, considering the amount of agricultural income declared by the assessee for last two financial years, we are of the considered view that a reasonable amount can be attributable towards savings, which can be kept in cash balance. Therefore, out of total agricultural income declared by the assessee, we consider a Sum of Rs. 2,00,000/- towards expenses of the assessee for two years and balance sum of Rs. 4,00,000/- is available with the assessee in the form of cash in hand which can be considered as source for cash deposits. Therefore, we direct the Assessing Officer to allow relief to the extent of Rs. 4,00,000/- towards cash deposits into bank account in addition to relief already given by the Id. CIT(A). For balance cash deposits, the assessee could not *adduce any evidence. Therefore, we sustain additions made by the Assessing Officer and sustained by the Id. CIT(A). To sum up, out of total additions sustained by the Id. CIT(A) of Rs. 31,60,956/-, the assessee gets relief of Rs. 4,00,000/- and balance amount of Rs. 27,60,956/- has been confirmed".*

8. In the result, appeal filed by the assessee is partly allowed.

4. In return of Income filed by the appellant for the assessment year 2017-18 on 06.03.2018, the appellant had declared an income of **Rs.3,75,350/-** and an agricultural income of **Rs.50,000/-.**

5. The assessment for Assessment Year 2017-2018 was completed on 27.12.2019 under Section 143(3) of the Income Tax Act, 1961 by treating cash deposits of Rs.36,34,071/- was made by the appellant during demonetisation in 2016 as "unexplained income" under Section 69A of the Income Tax Act, 1961.

6. The case of the appellant is that the proceedings initiated pursuant to the notice under Section 143(2) of the Income Tax Act, 1961 dated 21.09.2018 and further notice dated 07.08.2019 under Section 142(1) and 11.10.2019

under Section 142(1) of the Income Tax Act, 1961 were confined to source of cash deposits made during the demonetization period and therefore inclusion of entire cash deposits as "unexplained income" of the Appellant was unwarranted.

7. The appellant relied on the decision of the Hon'ble Division Bench of the Andhra Pradesh High Court in the case of ***Commissioner of Income Tax VI, Hyderabad vs. Purushottam Jhawar,*** (2013) 40 taxmann.com 533 rendered in the context of Section 158 BB of the Income Tax Act, 1961as it stood then the decision of the Allahabad High Court in ***Commissioner of Income Tax (Central), Kanpur vs. Fertilizer Traders,*** (2014) 42 taxmann. Com 476 and that of this High Court in ***Principal Commissioner of Income Tax, Central 1, vs. A.Anbukkannan,*** Tax Case Nos.216 & 217 of 2019 dated 04.03.2019

8. We have considered the arguments advanced by the learned counsel for the appellant. As such, no questions of law much-less any substantial questions of law arises for our consideration in this appeal. Therefore, this tax appeal is without any merits. The dispute relates to cash deposits made by the Assessment during demonetisation which was treated as "unexplained income"

of the appellant. We also do not find any infirmity in the impugned order passed by the Income Tax Appellate Tribunal.

9. Therefore, this tax appeal is liable to be dismissed. It is accordingly dismissed. No costs.

(R.S.K., J.) **(C.S.N., J.)**

02.09.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
kkd

<u>To</u>

1. The Income Tax Officer,
   Ward-11(1),
   Trichengode.

2. The Income Tax Appellate Tribunal
   'A' (SMC) Bench, Chennai.

R.SURESH KUMAR, J.
AND
C.SARAVANAN, J.
kkd

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