

**आयकर अपीलीय अधिकरण न्यायपीठ जोधपुर में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**JODHPUR BENCH**

**माननीय श्री संदीप गोसाईं, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing Through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.590/Jodh/2018

(निर्धारणवर्ष / Assessment Year: 2011-12)

<b>Mahendra Kumar</b> Baitu Dist., Barmer C/o. Rajendra Jain Advocate 106, Akshay Deep Complex 5th B Road, Sardarpura Jodhpur, Rajasthan-342 001.	<b>बनाम/</b> Vs.	<b>ACIT-Circle-Barmer</b> Rajasthan
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>BGZPK-1257-K</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri Rajendra Jain (Advocate) & Ms. Raksha Birla (CA)-Ld.ARs.
<b>Revenue by</b>	:	Shri A.S. Yadav- Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	05/11/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	21/12/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member): -**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as 'AY'] 2011-12 contest the order of Ld. Commissioner of Income-Tax-(Appeals)-2, Jodhpur, [in short referred to as

‘CIT(A)’, Appeal No.19/2014-15 dated 24/09/2018 on following effective grounds:-

1. That on the facts and in the circumstances of the case, the Id CIT (A) erred in sustaining addition of Rs.14,81,066/- u/s 69 of the Act.
2. That on the facts and in the circumstances of the case, the Id CIT (A) erred in confirming the finding recorded by the Id AO. The finding so recorded by authority below is erroneous, contrary to the material on record and perverse.
3. That on the facts and in the circumstances of the case, the Id CIT (A) erred in not considering the explanation furnished by the assessee which are supported from the documentary evidences.

As evident, the assessee is aggrieved by certain addition of Rs.14.81 Lacs u/s. 69 of the Act.

2. We have carefully heard the rival submissions and perused relevant material on record including written submissions and documents placed in the paper book. The judicial precedents as relied upon during the course of hearing have duly been deliberated upon. Our adjudication to the subject matter would be as given in succeeding paragraphs.

3.1 Facts on record are that assessee being resident individual is stated to be engaged in the business of retail trading of liquor/ wine and supply of water. It was assessed for the year under consideration u/s. 143(3) on 07/03/2014, wherein it was saddled with an addition of unexplained expenditure u/s. 69C for Rs.14.81 Lacs. Another addition of Rs.2.28 Lacs on account of unaccounted purchase / sale was also made.

3.2 During assessment proceedings, it transpired that assessee deposited cash in two bank accounts as per following details:-

No.	Bank	Account No.	Amount of Cash Deposit (Rs.)
1.	State Bank of Bikaner & Jaipur	61035787366	3506000
2.	Punjab National Bank	4065000100021900	5252000
		<b>Total Rs.</b>	<b>8758000</b>

Accordingly, the assessee was required to furnish the source of cash deposit. It was also noticed that there was discrepancy in the purchase of liquor/wine as per audit report vis-à-vis Form No.27D issued by tax collectors/liquor and wine suppliers against purchase of liquor/wine. The assessee failed to furnish source of cash deposit as well as explain the discrepancy in the amount of purchase. Accordingly, it was opined by Ld. AO that the assessee did not recorded correct purchases as well as cash deposit in the bank account to the following extent: -

No.	Particulars	As per Form No.27D/bank statement	As per books of account	Discrepancy
1.	Purchase of wine	7325747	5844681	1481066
2.	Cash Deposit	8758000	6687929	2070071

A conclusion was also drawn that unaccounted purchase of Rs.14.81 Lacs led to concealment of corresponding cash sale of Rs.20.70 Lacs. Since the assessee failed to record the source of Rs.14.81 Lacs, the same was to be treated as unexplained expenditure u/s 69C leading to excess cash deposit of Rs.20.70 Lacs. The Ld. AO further estimated gross profit of 11.03% on unaccounted cash sale of Rs.20.70 Lacs which led to another addition of Rs.2.28 Lacs. The rate of 11.03% was nothing but the

rate which was already reflected by the assessee in its books of accounts.

4. Upon further appeal, Ld. CIT(A) confirmed the addition of unexplained expenditure u/s 69C for Rs.14.81 Lacs since the assessee failed to explain the source of purchases. However, another addition was deleted since the assessee had sold water also, the proceeds of which was deposited in the bank account. Aggrieved, the assessee is in further appeal before us.

5. Upon due consideration of factual matrix as enumerated in the preceding paragraphs, it is quite evident that there were unaccounted purchases to the extent of Rs.14.81 Lacs. There were also unaccounted / unexplained cash deposits which were not recorded in the books of accounts. The assessee does not have any other source of income. Therefore, it could safely be concluded that the cash deposit in the account was nothing but business receipts which were generated out of unaccounted purchases. Hence, the facts and circumstances of the case would make it a fit case to make estimated additions of profit against unaccounted sales. Keeping in view the fact that the assessee reflected profit of 11.03% on recorded purchases, the estimate on unaccounted sales was to be made on higher side. We estimate the same @15% of unaccounted cash deposit of Rs.20,70,071/- which comes to Rs.3,10,511/-. Accordingly, balance addition made u/s 69C shall stand deleted.

6. The appeal stand partly allowed in terms of our above order.

ITA No.590/Jodh/2018  
Shri Mahendra Kumar  
Assessment Year: 2011-12

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal)  
Rules, 1963.*

**Sd/-**  
**(Sandeep Gosain)**  
न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21/12/2020  
Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Jodhpur
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकर अपीलीय अधिकरण, जोधपुर / ITAT, Jodhpur.**