

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'SMC': NEW DELHI**

SHRI SANJAY GARG, JUDICIAL MEMBER

**ITA No.1256/Del/2020
Assessment Year : 2017-18**

Rathoure Trading Co. 1G-65, NIT, Faridabad, Haryana-121001	vs	Income Tax Officer, Ward-2(2), Faridabad, Haryana
PAN-AHAPB0740K		
APPELLANT		RESPONDENT

Appellant by	Sh. Achal Kanwar, CA
Respondent by	Sh. Sanjay Kumar, Sr. DR
Date of Hearing	22.06.2022
Date of Pronouncement	22.06.2022

ORDER

This present appeal has been preferred by the assessee against the order dated 19.03.2020 of the Ld. Commissioner of Income Tax (Appeals)-Faridabad [hereinafter referred to as 'CIT(A)'] pertaining to AY 2017-18.

2. The assessee in this appeal has taken following grounds of appeal:-

1. *Because, the learned Commissioner of Income Tax (Appeals) erred in law as well as on facts while confirming the additions made by the Assessing officer of Cash deposit of Rs 10,03,000/- with the Bank during the demonetization period, from the Cash in hand from the Books of account emanating from/ on account of Cash sales during the Financial Year under Assessment, under Section 69A of the Income Tax Act.*

2. *Because, the following observations of the learned CIT(Appeals) in the Assessment order are perverse, arbitrary, baseless, and misleading*

(a) *" However, the appellant has failed to explain the genuineness of such cash sales made as no tangible evidence*

such as availability of Stock in trade, Stock Register, transportation of the sales made, Cash receipt vouchers have been furnished either during the Assessment proceedings or appellate proceedings."(2nd Para No 6 Page No 12)

(b) "The onus was on the appellant to satisfactorily explain the source and nature of Cash deposit in the bank account during the year. In the circumstances it is held that AO was justified in making addition of Rs 10,03,000/-". (2nd Para No 6 Page No 12)

3. Because, the learned CIT (Appeals) has erred in overlooking and in summarily rejecting the detailed statement of facts

Along with Memorandum of Appeal, detailed Submission various documents and evidence placed while accepting the lopsided and factually incorrect version of the learned Assessing officer.

4. Because, the learned lower authorities have erred in assuming that Cash deposit in Bank during the monetisation period was out of Cash sales during the monetisation period whereas the Cash deposit was out of the Cash in hand from the regular Books of account emanating from/ on account of Cash sales during the Financial Year under Assessment duly authenticated by Cash Sales Voucher/ Cash Memo, stock in trade and its availability and transportation in purchaser's own conveyance and sales duly reconciled with the sales Tax return etc etc.

5. Because the hon'ble Commissioner of Income Tax was erred in not granting the personnel hearing to explain the issues now raised by him in the order of appeal .

6. Because the hon'ble Commissioner of Income Tax is erred in law and facts in justifying the addition of Rs 10,03,000/- under Section 69A of the Income Tax Act and consequently upholding provisions of Section 115 BBE when the deposit in Bank was from the Cash in hand from the regular Books of accounts of the Firm emanating from cash sales."

3. The sole issue raised in this appeal is relating to the addition made by the Assessing Officer (in short 'the AO') of Rs.10,03,000/- on account of

cash deposits in the bank account of the assessee during the demonetization period.

The case of the assessee is that the aforesaid amount was out of sale proceeds made by the assessee during the year in its chemicals sale business.

The AO, however, observed from the account of the assessee that during the other part of the year, no such deposits were made by the assessee in the bank account and that the aforesaid amount was deposited only during the demonetization period. Therefore, the AO rejected the contention of the assessee that the aforesaid amount was out of cash sales.

4. The ld. counsel for the assessee has explained that the total sales of the assessee for the year under consideration are at 15.38 Crores and the amount of Rs.10 lakhs is a meager amount as compared to the total sales of the assessee. That the assessee has duly filed its VAT return which duly matches with the balance sheet and trading account of the assessee. The Ld. counsel for the assessee has further explained that during the normal course of business, the cash sales are used in the business of the assessee for further purchases etc. However, during the demonetization period, the assessee was required to deposit the same in the bank account, so the same was deposited in the bank account. That otherwise, the AO has not rejected the books of account of the assessee. That the sale is duly not only

disclosed in the books of account but in the VAT return also and due taxes were paid thereupon.

Considering the aforesaid facts and circumstances of the case, which have not been rebutted by the Ld. DR, I do not find any justification on the part of the lower authorities in making the impugned addition and the same is accordingly hereby deleted.

6. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open Court on 22.06.2022.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Delhi;

Dated: 22/06/2022.

Shekhar

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI