

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI. GEORGE GEORGE K, JUDICIAL MEMBER
AND
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No.43/Bang/2022
Assessment Year : 2017-18

Shri. Pukhraj, Prop: Kissan Trading Co., Bhati Complex, 1 st Cross Garden Area, Shivamogga – 577 202. PAN : AFJPP 7695 A	Vs.	ACIT, Circle – 1, Shivamogga.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Smt. Priyadarshini Baseganni, Addl. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	13.07.2022
Date of Pronouncement	:	19.07.2022

ORDER

Per Padmavathy S, Accountant Member

This appeal is against the order of the National Faceless Centre (NFAC) passed under section 250 of the Income Tax Act ('the Act') dated 02.12.2021 for Assessment Year 2017-18.

2. The assessee has raised 10 grounds and the issues arising out of the same are as follows:

- i. Addition of Rs.19,50,000/- under section 68 of the Act

ii. Addition of Rs.6,97,272/- under section 69C of the Act

3. The assessee is a dealer for Motor Pumps, irrigation products, pipes and fitting. The assessee filed the return of income for Assessment Year 2017-18 on 10.08.2017 declaring an income of Rs.37,16,360/-. The case was selected for scrutiny by issuing notice under section 143(2) of the Act. The Assessing Officer (AO) asked the assessee to furnish the details of cash deposits made during demonetization period in all the bank accounts with sources, material evidences and cash book. The assessee submitted a certificate from Corporation Bank [**page 334 of Paper Book**] evidencing the cash deposits of Rs. 98,66,000

4. The AO from certificate noticed that a sum of Rs.23,50,000/- have been deposited by the assessee in specified Bank Notes (SBN) which the assessee explained that is from the cash accumulated as on 08.11.2016 of Rs.88,82,000/- out of the cash sales. From the details of cash sales furnished by the assessee, the AO worked out the average sales per day based on which concluded that the assessee has hiked up the sales and called for invoices supporting the cash sales. On perusal of the invoices, the AO stated that no details pertaining to the persons to whom the sales could be inferred and therefore made an addition of Rs.19,50,000/- under 'Income from Other Sources' as unexplained under section 68 of the Act.

5. Aggrieved, the assessee preferred an appeal before the CIT(A) who confirmed the order. The assessee is in appeal before the Tribunal against the order of the CIT(A) passed through NFAC.
6. The learned AR submitted that:
 - i. The disallowance is made by the AO on adhoc basis.
 - ii. The sales account [**page 532 of Paper Book**] would show that the spike in sales from September 2016 has been gradual and the trend continues for the subsequent months to demonetization also.
 - iii. The assessee's year on year sales has been on the increasing trend which is substantiated by the details furnished upto Assessment Year 2019-20.
 - iv. The Gross Profit ratio and the Net Profit ratio have been consistent at the same level.
 - v. The books of accounts are audited by the Chartered Accountant who had verified all the details during the course of audit and have certified the correctness and completeness of the books of accounts.
 - vi. The AO and the CIT(A) have accepted the books of accounts including the sales numbers and therefore cannot make an addition under section 68.
 - vii. The product of the assessee caters mainly to farmers in and around Shimogga and hence most of the sales are done through cash and it is the reason for assessee could not file the details of persons to whom sales is made.
 - viii. The sales of the assessee increases post rainy season i.e., September and the sales during second half of the year is more. This fact is evident from the monthly sales figures submitted for Assessment Year 2016-17 and Assessment Year 2017-18 [**Pages 532 and 533 of Paper Book**].

- ix. Reliance in this regard is placed on the following cases:
- (a) R. B. Jessaram Fetechand (Sugar) Vs. CIT (1970) 75 ITR 33 (Bom)
 - (b) Annatpur Kalpana Vs. ITO [541/Bang/2021]

7. The learned DR submitted that the significant increase in the cash sales figures during demonization period proves that the assessee has cooked up the books of accounts to support the deposit of SBN. Learned DR further submitted that the details of customers to whom sales was made was also not furnished to prove the genuineness of the cash sales. With regard to the contention that books are accepted by the AO/CIT(A), the learned DR argued that it is only the sales which is being questioned as the same is not explained to the satisfaction of the lower authorities. The learned DR also questioned the availability of new currencies to the customers post-demonitization as the trend of sales is not coming down which according to learned DR proves that the sales figures are inflated. Based on these submissions, the learned DR prayed that the appeal be dismissed.

8. We heard the rival submissions and perused the materials on record. The assessee has furnished a certificate from Canara Bank where it is stated that the assessee has deposited a sum of Rs.23,50,000/- in SBN immediately after the demonetization. The assessee has submitted cash book, sales account, purchases account, etc., before the lower authorities to substantiate that the source for the cash deposit is from the cash sales. The assessee has also furnished details pertaining

to the previous financial Year i.e., 1st April, 2015 to 31st March, 2016, ledger extracts of sales account, cash book, etc., to evidence the fact that the assessee's sales figures are genuine. Before us, the learned AR submitted the cash sales details from Assessment Year 2015-16 to Assessment Year 2019-20 where we see that the cash sales numbers of the assessee has been increasing year to year especially from the Assessment Year under consideration. In the same table, the learned AR drew our attention to the cash deposits done by the assessee during the Assessment Year which also is in line with the contention of the assessee. The learned AR also drew our attention to the fact that the Gross Profit and Net Profit ratio of the assessee is consistent and therefore reiterated that the sales numbers are genuine.

PUKHRAI, PROP. KISSAN TRADING CO., SHIMOGA						
SUMMARY OF CASH DEPOSITS IN BANK						
A Y	TO (in Cr.)	Corp.Bank- 3324018011600001	SBI - 6404903310	SBI - Housing Loan- 64073498811	TOTAL	Ratio
2015-16	1.46	-	86,86,900.00	-	86,86,900.00	59.50%
2016-17	3.1	-	1,53,72,228.00	-	1,53,72,228.00	49.68%
2017-18	10.76	6,23,46,000.00	1,18,42,038.00	5,74,114.00	7,4762,152.00	69.52%
2018-19	8.56	7,23,15,620.00	-	-	7,23,15,620.00	84.46%
2019-20	8.71	6,87,44,065.00	-	-	6,87,44,065.00	78.87%

PUKHRAI, PROP. KISSAN TRADING CO., SHIMOGA			
SUMMARY OF PROFIT RATIOS			
A Y	TURNOVER (in Cr.)	GROSS PROFITRATIO - %	NET PROIT RATIO - %
2015-16	1.46	12.96	3.95
2016-17	3.1	11.02	3.98
2017-18	10.76	7.14	3.50
2018-19	8.56	7.38	3.65
2019-20	8.71	8.96	4.63

9. It is an undisputed fact accepted by both the AO and the CIT(A) that the cash receipts are nothing but sale proceeds in the business of the assessee. The addition is made for the deposit of SBN during demonetization period on the ground that the cash sales is inflated by the assessee. The amount of sales which is not disputed is already offered to tax by the assessee by reflecting the same in the trading / P&L Account. This fact is not doubted by the lower authorities. In that case, if the cash deposits are added under section 68 of the Act, then it would result in taxing the impugned amount twice, once as a sales income and secondly as an addition under section 68 of the Act. The Hon'ble Delhi High Court in the case of PCIT Vs. Singhal Exim Pvt. Ltd., [ITA No.228/2020 dated 22/02/2021] on similar issue took the view that the addition under section 68 of the Act is contradictory to the stand taken while accepting the business income and that the amount in question have already been charged to the income of the assessee, cannot be taxed again under section 68 of the Act.

10. The Hon'ble Kolkata Tribunal in the case of CIT Vs. Associated Transport Pvt. Ltd. reported in 84 Taxman 146 on identical facts took the view that when cash sales are admitted and income from sales are declared as income, wherein the Hon'ble Tribunal found that the assessee had sufficient cash in hand in the books of account of the assessee, that there was no reason to treat the cash deposits as income from undisclosed sources. The Hon'ble Vishakapatnam Tribunal in the case of ACIT Vs. Hirapanna Jewelers in ITA No.253/Viz/2020 on identical facts held that when cash receipts represent the sales which the assessee has offered for taxation and when no defects are pointed out in the books of account, it was held that when assessee already admitted the sales as revenue receipt, there is no case for making the addition u/s 68 or tax the same u/s 115BBE again. Similar view is taken by the Hon'ble ITAT in the following cases:

(i) The Hon'ble Delhi ITAT in the case of Agons Global (P) Ltd., Vs. ACIT [ITA 3741 to 3746/Del/2019]

(ii) The Hon'ble Indore ITAT in the case of Dewas Soya Ltd., Vs. ITO [ITA No.336/Ind/2012].

11. We also notice that the Hon'ble Supreme Court in the case of CIT Vs. Devi Prasad Viswanath Prasad (1969) 72 ITR 194 (SC) on the issue of additions under section 68 held that "*It is for the assessee to prove that even if the cash receipts represents income, it is income from a source, which has already been taxed.*" Applying this ratio, in our view, the assessee has discharged the onus by offering the sales for taxation and therefore the same income cannot be taxed again. In view

of the above discussion, we are of the considered view that the addition of Rs.19,50,000/- made under section 68 of the Act cannot be sustained and is therefore deleted. This ground is allowed in favour of the assessee.

12. The next issue for our consideration is the addition made under section 69C of the Act. During the year under consideration, the assessee claimed Rs.33,985/- as deduction towards housing loan interest. The AO called for details of housing loan for which the assessee submitted the housing loan statement. On perusal of the statement, the AO noted that the assessee has repaid an amount of Rs.5,74,414/- in cash whereas the drawings in the capital account of the assessee is only Rs.1,85,000/-. Therefore, the AO concluded that there is no source for the repayment of housing loan for the assessee and hence treated an amount of Rs.6,97,272/- which the AO arrived at from the housing loan statement as unexplained expenditure under section 69C of the Act. This was upheld by the CIT(A) on the ground that majority of the loan is repaid in cash and the genuineness of the funds used for repayment has not been proved by the assessee. Aggrieved, the assessee is in appeal before the Tribunal.

13. The learned AR submitted that all the details pertaining to the housing loan was submitted before the lower authorities including cash book reflecting the repayment entry. The learned AR also submitted that the housing loan is closed as of 20th August, 2016 and hence same is not reflecting in the financials for the year ending 31st March, 2017. The learned AR also drew our attention to the Housing Loan statement

where there is an arithmetic error while arriving at the outstanding balance and that the AO has taken the figures as it is while arriving at the addition of Rs.6,97,272/- which is incorrect. The learned AR submitted that this fact was brought to the notice of the AO as well as CIT(A) who have considered the same.

14. The learned DR supported the orders of the lower authorities.

15. We heard the rival submissions and perused the material on record. The correct statement of the housing loan as per the ledger of the assessee is as given below:

Date	Particulars	Vch Type	Vch No.	Debit	Credit
1-Apr-16	By Opening Balance				6,07,074.00
30-Apr-16	By Accrued SBM H L Interest A/c	Payment	58		7,434.00
31-May-16	By Accrued SBM H L Interest A/c	Payment	138		
17-Jun-16	To SBMOID A/c - 64049503310	Contra	55	67,000.00	
	By Bank Charges	Payment	174		55.00
30-Jun-16	By Accrued SBM H L Interest A/c	Payment	207		7,238.00
31-Jul-16	By Accrued SBM H L Interest A/c	Payment	273		7,119.00
20-Aug-16	By Accrued SBM H L Interest A/c	Payment	294		4,418.00
	To Cash	Contra	76	5,74,114.00	
				6,41,114.00	6,41,114.00

16. The above entries are substantiated from the housing loan statement from State Bank of Mysore [**Pages 888 to 890 of Paper Book**]. We also notice that in cash book ledger submitted by the assessee in Page 149 of Paper Book, the cash repayment of housing loan

is reflected and the corresponding entry is found in the SBM Housing Loan account in Paper 930 of Paper Book the extract of which is given above. From the perusal of the cash book, it is also noticed that the assessee is having sufficient cash balance generated out of cash sales as on the date of repayment of the loan. In view of the above discussion of facts, we are of the considered view that the assessee is having sufficient source explaining the repayment of housing loan and therefore delete the addition made under section 69C of the Act as unexplained expenditure. This ground of the assessee is allowed.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(GEORGE GEORGE K)
Judicial Member

Sd/-
(PADMAVATHY S)
Accountant Member

Bangalore,

Dated: 19.07.2022.

/NS/*

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|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order
Assistant Registrar,
ITAT, Bangalore.