

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.496/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

ACIT Central Circle-1(1), Chennai.	बनाम/ Vs.	M/s. Jain Cars and Auto Sales Pvt. Ltd. 57, North Usman Road, T. Nagar Chennai – 600 017.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AACCG-0705-G		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Assessee by	:	Shri D. Anand (Advocate) – Ld. A.R
प्रत्यर्थी की ओरसे/Revenue by	:	Shri Ravindra T. Mishra (JCIT) – Ld. DR
सुनवाई की तारीख/Date of Hearing	:	21-07-2022
घोषणा की तारीख /Date of Pronouncement	:	21-07-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 25-03-2022 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 31-12-2019. The grounds taken by the Revenue are as under:

1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts of the case and in law.
2. The learned CIT(A) has erred in deleting the addition made towards unexplained cash credit of Rs.78,71,705/- u/s.68 of the IT Act in respect of the cash deposits made in bank accounts during the demonetization period 09/11/2016 to 30.12.2016.

2.1. The CIT(A) has failed to appreciate that the assessee has not provided name, address and other identity particulars of persons to whom cash sales were made during that period and it is onus on the assessee to prove the genuineness of transactions recorded in the sales register with the supporting evidences.

3. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.

As evident, the revenue assails the deletion of certain addition u/s 68 for Rs.78.71 Lacs.

2. The Ld. Sr. DR drew attention to the findings given by Ld. AO in the assessment order and pleaded for restoration of assessment as framed by Ld. AO. The Ld. AR, on the other hand, justified the deletion of impugned additions. Having heard rival submissions, our adjudication would be as under. The assessee being resident corporate assessee is stated to be engaged in trading and servicing of cars.

3. During assessment proceedings, it transpired that the assessee made cash deposits of Rs.79.04 Lacs in various bank accounts held by it. Accordingly, the assessee was directed to establish the source thereof. The assessee submitted that source was sales proceeds from sale of vehicles, spares and services rendered to customers. The assessee provide cash book and sale register. However, the assessee did not provide the details of person to whom cash sale was made. There was increase in sales by about 23.80% from 01/04/2016 to 08/11/2016. Therefore, the case despot of Rs.78.71 Lacs was treated as unexplained cash credit u/s 68 and added to assessee's income which would be taxable at higher rates u/s 115BBE.

4. The Ld. CIT(A) noted that AO did not conduct sufficient enquiries before making such addition. He did not even verify the details of

denomination of cash deposited during demonetization period. The increase in sale was due to opening of new branch which was not considered by Ld. AO. In fact, the assessee had deposited demonetized currency for Rs.7,10,500/- only which represent cash in hand as on 08/11/2016. The deposits during demonetization period including demonetize currency was less by 75.06% when compared to the deposits during the corresponding period in earlier year. The assessee had furnished the sales register. Considering all these facts, the impugned additions were deleted against which the revenue is in further appeal before us.

5. The findings rendered by Ld. CIT(A) in the impugned order remain undisturbed before us. The assessee had deposit demonetized currency for Rs.7,10,500/- only which represent cash in hand as on 08/11/2016. The assessee also furnished cash book ad sale register in support of availability of cash in hand which could not be disputed by revenue. Therefore, the allegations of Ld. AO have no legs to stand and we see no reason to interfere in the impugned order.

6. The appeal stand dismissed.

Order pronounced on 21st July, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 21-07-2022
EDN/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF