

**आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI**  
**श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT**  
**AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

**आयकरअपीलसं./I. T. A.No.363/Chny/2022**

(निर्धारणवर्ष / Assessment Year: 2017-18)

M/s.Southern Steels, 106/9, Parri Nagar, Perundurai Rod, Erode-638 011.	Vs	The Income Tax Officer, Ward-1(4), Erode.
PAN: ACVFS 3268F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. S.Sridhar ,Erode Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. N.Sanjay Gandhi, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	15.09.2022
घोषणाकीतारीख /Date of Pronouncement	:	15 .09.2022

**आदेश / ORDER**

**PER G.MANJUNATHA, AM:**

This appeal filed by the assessee is directed against order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21.03.2022 and pertains to assessment year 2017-18.

2. The assessee has raised following grounds of appeal:-

*"1. The order of the Learned CIT(A) is bad and erroneous in law and against the principles of natural justice.*

*2. The Learned CIT(A) erred in not considering the written submissions and grounds of appeal in proper perspective.*

*3. The action of the learned CIT(A) in sustaining the order of the Assessing Officer is not justified, for the transactions, resulting in the cash deposits in to the Bank, have been duly entered in the regularly maintained books of account, that the*

*business results have been accepted and that the books of accounts are not rejected. [Relying on 189 ITD 608 (Viz).*

*4. The Learned CIT(A) erred in sustaining the additions made by the Assessing officer without considering the explanation given by the appellant about the sources of the cash deposits.*

*5. The CIT(A) erred in not looking at the law in proper perspective i.e., sec.69A, can be invoked, ONLY when the alleged money was not found recorded in the books of accounts, which is not the case of the appellant.*

*6. The action of the CIT(A) is erroneous, for he failed to even look into "The Specified Bank Notes(Cessation of liabilities) Act, 2017, which plays a vital role in the alleged addition. [Relying on ITA No.646/Bang/2021 dt.18/02/2022; ITA No.76/Viz/2021 dt.16/03/2022 and ITA No. 1185/Del/2021 dt. 06/04/2022] ."*

3. Brief facts of the case are that the assessee is engaged in the business of trading in steels and running lorry transport filed its return of income for the assessment year 2017-18 on 02.11.2017 declaring total income of Rs.6,92,890/-. The case was selected for scrutiny and during the course of assessment proceedings, the Assessing Officer noticed that during demonetization period, the assessee has made cash deposits to the tune of Rs.26,64,000/- to its bank account. The assessee has stated that source for cash deposit is out of cash balance available in book as on 07.11.2016 of Rs. 22,21,581/- and out of cash balance, the assessee has deposited cash between 09.11.2016 and 31.12.2016. The explanation offered

by the assessee was not considered by the Assessing Officer and according to the Assessing Officer, while submitting cash transaction of 2016 to the Department in column B.1, the assessee has shown cash availability of Rs.15,12,154/- out of earlier income and savings. Therefore, rejected cash book furnished by the assessee and allowed source to the extent of Rs.15,12,154/- out of total deposits of Rs.26,64,000/- and balance amount of Rs.11,51,846/- has been added u/s.69 of the Act, as unexplained income. The assessee carried the matter in appeal before the first appellate authority, but could not succeed. The learned CIT(A) for the reasons stated in his appellate order dated 21.03.2022 sustained additions made by the Assessing Officer towards cash deposits during demonetization period. Aggrieved by the learned CIT(A) order, the assessee is in appeal before us.

4. The learned A.R. for the assessee submitted that the Assessing Officer as well as learned CIT(A) erred in rejecting cash book furnished by the assessee to explain source for cash deposits, even though, the Assessing Officer has admitted fact that the assessee has cash balance of Rs.22,21,581/- as on

07.11.2016 without appreciating fact that the assessee is in business and required to maintain books of account on day to day basis. Therefore, the learned A.R. submitted that source to the extent of cash available in books of account should be allowed.

5. The learned DR, on the other hand, supporting order of the learned CIT(A) submitted that the assessee during the demonetization period had submitted details to the department and claimed that it had cash balance of Rs.15,12,154/-, out of earlier income and savings. Therefore, cash book prepared and produced before the Assessing Officer is only an afterthought to circumvent cash deposits made during the demonetization period and thus, the Assessing Officer has rightly made additions and their orders should be upheld.

6. We have heard both the parties, perused material available on record and gone through orders of the authorities below. Admittedly, the assessee is in the business of trading in steels and lorry hire business. The turnover of the assessee for the financial year 2015-16 was at Rs.1.45 crores and same has been jumped to Rs.13.33 crores for the period from

01.04.2016 to 31.03.2017 relevant to the assessment year 2017-18. The assessee's turnover is over and above threshold limit for maintenance of books of account and audit of books of account u/s.44AB of the Act. Therefore, the assessee is required to maintain regular books of account on day to day basis. Therefore, on this ground cash book furnished by the assessee before the Assessing Officer cannot be doubted and cannot be called as an afterthought. Further, as per cash book furnished by the assessee cash balance available as on 07.11.2016 was at Rs.22,21,581/-. In fact, the Assessing Officer has accepted cash balance available as on 07.11.2016. Therefore, once there is no dispute about cash balance available before demonetization period, then cash deposits made during demonetization period to the extent of cash balance available in the books of account cannot be doubted. In this case, the Assessing Officer has summarily rejected cash book furnished by the assessee and allowed relief to the extent of Rs.15,12,124/- only on the basis of report submitted by the assessee to the department. No doubt, the assessee must have submitted some report stating that cash balance available was at Rs.15,12,124/-. However, when evidence furnished

proves otherwise, and which was not disputed then, evidences should be considered, but not other reports submitted by the assessee. Therefore, we are of the considered view that the Assessing Officer ought to have allowed relief of Rs.22,21,581/- out of total cash deposits of Rs.26,64,000/- during the demonetization period. Hence, we direct the Assessing Officer to allow source for cash deposits to the extent of cash available as on 07.11.2016 to the tune of Rs.22,21,581/-. For balance amount of Rs.4,42,419/-, the assessee could not offer any explanation. Therefore, we direct the Assessing Officer to sustain additions towards cash deposits during demonetization period to the extent of Rs.4,42,419/-.

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

Order pronounced in the open court on 15<sup>th</sup> September, 2022

Sd/-  
(महावीर सिंह)  
(Mahavir Singh)  
उपाध्यक्ष/ Vice-President  
चेन्नई/Chennai,

Sd/-  
(जी. मंजुनाथ)  
(G. Manjunatha )  
लेखा सदस्य / Accountant Member

दिनांक/Dated 15<sup>th</sup> September, 2022

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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