

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

BEFORE SHRI SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER &
SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

I.T.A. No. 51/JAB/2022
(Asst. Year: 2017-18)

Gajraj Mining Pvt. Ltd., Behind Telephone Exchange, Nehru Nagar, Singrauli (MP)	vs.	Principal CIT-1, Jabalpur.
[PAN : AADCG 9684 L]		
(Appellant)		(Respondent)

Appellant by : Shri Sapan Usrethe, Advocate
Respondent by : Shri Sanjay Kumar, CIT-DR

Date of hearing : 29/08/2022
Date of pronouncement : 20/09/2022

ORDER

Per Sanjay Arora, AM:

This is an Appeal by the Assessee directed against the Order under section 263 of the Income Tax Act, 1961 ('the Act' hereinafter) dated 10/02/2022 by the Principal Commissioner of Income Tax-1, Jabalpur ('Pr. CIT' for short) in respect of it's assessment u/s. 143(3) of the Act dated 31/12/2019 for Assessment Year (AY) 2017-18.

2. The sole issue on which the ld. Pr. CIT, the revisionary authority, has set aside the assessment in the instant case is the non-verification by the Assessing Officer (AO) of the cash deposited in Bank by the assessee during the relevant previous year, being at Rs. 164.32 lacs (deposited during the demonetisation period, i.e., 09/11/2016 to 31/12/2016) and Rs. 90 lacs (utilised toward the time deposit/s of Rs. 1028.126 lacs on 08/08/2016). The assessee, in the revision

proceedings, explained the former on the basis of its cash-book (PB pgs.51-82) maintained in the regular course of its business, and which forms part of its audited accounts for the relevant year. Toward the latter, it explained that no cash was utilised for the purchase of FDR/s, which is at a total of Rs. 872.826 lacs (as against the stated sum of Rs. 1028.126 lacs) during the relevant year, and for which the assessee adduced the ledger account of the FDR (PB pg. 83), as well as the increase in the FDRs (forming part of its current asset), as reflected in its balance-sheet as at the year-end (31/03/2017), i.e., vis-à-vis as on 31/3/2016 (Schedule-15 to the Balance-Sheet/PB pg.87). Reference for the purpose was made by Shri Usrethe, the Id. counsel for the assessee, to the assessee's reply dated 11/01/2022, discussing the two issues at paras 28 to 32 and paras 37 to 40 thereof respectively, which were referred to by him during hearing, and also stand perused by us. That apart, there is disclosure of specified bank notes (SBN) in the 'Notes to the Accounts' appended to the annual accounts (PB pgs.28). The Id. Pr. CIT, however, was not satisfied, and holding as under, set aside the assessment as erroneous insofar as it is prejudicial to the interest of the Revenue for a *de novo* consideration by the AO:

'8.3 Looking to the facts and circumstances and in the light of material facts available on record the entire amount of cash deposit to the tune of Rs. 2,54,32,000/- (1,64,32,000 (+) 90,00,000) remains unexplained. Accordingly, the questioned cash deposits of Rs. 2,54,32,000/- is remained suspicious/generated from undisclosed sources/unexplained and deserves to be treated as unexplained money as enlighten in provisions of section 69A read with section 115BBE of the Income Tax Act, 1961 and to be taxed in the hands of the assessee for the year under consideration. Accordingly, in order to rope into the escape assessment or any possible leakage of revenue all the bank statements of above referred bank accounts needs thorough investigation.'

3. We have heard the parties, and perused the material on record.

3.1 We are unable to understand the basis of the impugned order (IO). No doubt, the assessee has deposited a heavy sum in cash in its bank account during

the demonetisation period. The same, however, stands explained, as afore-noted, with reference to its cash-book, no defect in which stands pointed out by the Id. Pr. CIT. Why, the opening cash-in-hand (i.e., as on 01/04/2016), as also explained before him, is itself at Rs. 97.95 lacs, duly reflected in the assessee's audited accounts for the preceding year and, thus, in its balance-sheet as on 31/03/2016. The source of the cash generated during the year is through withdrawals from bank, deposits in which are in the main receipts on revenue account, i.e., from its principal (Northern Coalfields Ltd.) as well as on capital account (in the form of transfer from borrowing account), as indeed cash deposits, and which are at Rs. 130 lacs for the period 01/04/2016 to 08/11/2016. How, could, one wonders, the same be regarded as suspect, as the Id. Pr. CIT states. No infirmity therein stands pointed out by him. True, the withdrawal of cash from bank despite absence of commensurate utilization and, rather, sufficient balance already in hand, is quizzical indeed. However, even as observed by the Bench during hearing, the source thereof, absence of explanation *qua* which could be impugned by the Revenue, is explained. Two, the existence of cash-in-hand, suspect on its quantum due to its adequacy in relation to assessee's needs or the reason for holding the same, gets itself proved on its deposit with the bank.

3.2 Be that as it may, we are conscious of the unexplained behaviour of the cash account, i.e., a huge cash balance, far in excess of utilisation (for example, the opening cash-in-hand of Rs. 98 lacs represents the cash utilisation for nearly 1½ to 2 months), and the cash stands withdrawn despite sufficient cash balance. Why, the non-requirement of cash-in-hand (in the sum held) is itself proved by the fact of non-withdrawal of the cash deposited (in the form of SBN), i.e., after being deposited, resulting in the closing cash balance at Rs. 10.75 lacs, i.e., as against an opening cash balance of Rs. 98 lacs. The same called for a verification of the cash account which, despite doubting the source of cash deposit/s in bank, has, equally inexplicably, not been verified by the Revenue. We, accordingly, while upholding

the revision in principle, modify the directions by the Id. Pr. CIT. As against a *de novo* consideration, the AO shall in the set aside proceedings limit his verification to the cash account, viz. the following:

- a) source of cash introduced in the assessee's cash-book, be it by way of withdrawal from bank; revenue or capital receipt, etc., with reference to the corresponding account (viz. bank account, sales/customer account, etc.);
- b) cash deposited in the bank (with reference to the relevant bank account/s);
- c) Petty cash (with reference to the petty cash-book); and
- d) cash utilized for investment,

and issue a finding as regards the source of cash deposited in the bank during the year. An adverse finding by him, i.e., as to the said source being unexplained or not satisfactorily explained, shall only be upon the assessee being heard in the matter.

3.3 We decide accordingly.

4. In the result, the assessee's appeal is allowed on the aforesaid terms.

Order pronounced in open Court on September 20, 2022

Sd/-
(Manomohan Das)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Dated: 20/09/2022

vr/-

Copy to:

1. The Appellant: Gajraj Mining Pvt. Ltd., Behind Telephone Exchange, Nehru Nagar, Singrauli (MP)
2. The Respondent: Principal CIT-1, Jabalpur.
3. The CIT-DR, ITAT, Jabalpur.
4. Guard File.

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Jabalpur.