

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.186/Ahd/2022
Assessment Year: 2017-18**

Yogesh Vasantbhai Mandalia,
83-9th Floor, Mahavir Tower,
Nr. Sitaba Hospital,
Ghatlodiya
Ahmedabad – 380 006.
[PAN – AEZPM 9742 E]
(Appellant)

vs. Income Tax Officer,
Ward – 4(2)(5), Ahmedabad.

(Respondent)

Assessee by : Shri S.N. Divatia, Advocate
Respondent by : Shri Vidhyut Trivedi, Sr. DR

Date of hearing : 09.11.2022
Date of pronouncement : 23.11.2022

ORDER

This appeal is filed by the Assessee against the order dated 24.03.2022 passed by the CIT(A)-11 Ahmedabad for the Assessment Year 2017-18.

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

- “1.1 The order passed by u/s.250 passed on 24.03.2022 by CIT(A)-11, Ahmedabad upholding the addition of Rs.30,65,000/- towards cash deposits in bank accounts as unexplained money u/s.69 r.w.s. 115BBE is wholly illegal, unlawful and against the principles of natural justice.*
- 2.1 The Ld. CIT(A) ought to have allowed one more opportunity to the appellant to produce the cash book for F.Y. 2016-17 in view of the misunderstanding entertained by the appellant, failing which a grave injustice has been caused since it goes to the root of the matter.*
- 2.2 That in the facts and circumstances of the Id. CIT(A) ought not to have rejected the additional evidence in the form of cash book for F.Y. 2016-17 but the same should have been admitted in the interest of justice and equity.*

3.1 *The Id. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.30,65,000/- towards cash deposits in bank accounts as unexplained money u/s.69 r.w.s. 115BBE.*

3.2 *That in the facts and circumstances of the Id. CIT(A) ought not to have upheld the addition of Rs.30,65,000/- towards cash deposits in bank accounts as unexplained money u/s.69 r.w.s. 115BBE.*

It is, therefore, prayed that the addition of Rs.30,65,000/- upheld by the CIT(A) may kindly be deleted.”

3. The assessee is engaged in manufacturing and selling of jewellery/ornaments. The assessee filed return of income for Assessment Year (A.Y.) 2017-18 on 30.10.2017 declaring total income at Rs.12,06,880/-. The case was selected in CASS for scrutiny for the reason of abnormal increase in cash deposits during demonetisation period as compared to pre-demonetisation period. Notice under Section 143(2) and 142(1) of the income Tax Act, 1961 were issued and served to the assessee. After taking cognisance of the evidence produced by the Assessing Officer, the Assessing Officer made addition of Rs.30,65,000/- for unexplained money under Section 69A of the Act which is taxable under Section 115BBE of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the assessee produced cash book, purchase register, stock register etc. before the Assessing Officer to prove that the cash deposit in the bank account during the demonetization period aggregating to Rs.30,65,000/- was made out of sale proceeds of the stock in trade/recovery of dues. Before the CIT(A) the assessee submitted additional evidences under Rule 46A thereby filing the details related to cash book for the earlier year shown. The Ld. AR submitted that from the perusal of the cash book it can be seen that there was nominal cash on hand at the year end of the earlier year. The assessee furnished cash book from 01.04.2014 to 31.03.2016 and bank statement of Nutan Sahakari Bank Limited from 01.04.2016 to 31.05.2012. Thus, the Assessing Officer had made contrary objection thereby stating that the assessee has not produced sales/purchase invoice register.

The Ld. AR submitted that the production of cash book cannot be the sole criteria and hence addition is not just and proper.

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A). The Ld. DR further submitted that the assessee has not produced cash books related to sales and, therefore, the Assessing Officer has rightly made addition.

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the additional evidence related to cash book for A.Y. related to F.Y. 2015-16 was rejected by the CIT(A) without taking cognisance of the same in the present A.Y. The Assessing Officer has made addition on the basis that the cash book for F.Y. 2016-17 was not produced. From the perusal of the evidences produced before the CIT(A) it can be seen that the assessee has given the details related to cash in hand prior to demonetisation and during the demonetisation as well after demonetisation. The deposit of Rs.30,65,000/- is own cash with the cash balance, cash sales and also related to sales register, sales Bills, VAT returns and cash books. Thus, the assessee has given all the details before the CIT(A) to prove the case that the cash deposits in the bank account during the demonetisation period was genuine cash deposits received from the purchase and sales of transactions. Hence, the Assessing Officer as well as the CIT(A) was not right in making addition under Section 69 read with Section 115BBE of the Act. The appeal of the assessee is, therefore, allowed.

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

Order pronounced in the open Court on this 23rd day of November, 2022.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 23rd day of November, 2022

PBN/*

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*