

IN THE INCOME TAX APPELLATE TRIBUNAL  
"F" BENCH, MUMBAI

SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1051/MUM/2022  
(Assessment Year: 2012-13)

Shri Vision Stationery Private Limited,  
8/9, 2<sup>nd</sup> Floor, Somaiya Sadan,  
Ville Parle (West), Mumbai - 400056  
[PAN: AAACV4008]]

..... Appellant

Vs

Commissioner of Income Tax(Appeals),  
National Faceless Appeal Centre, Delhi

..... Respondent

Appearances

For the Appellant/Assessee : None  
For the Respondent/Department : Shri Vivek Perumpura

Date of conclusion of hearing : 12.09.2022  
Date of pronouncement of order : 30.11.2022

**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Appellant has challenged the order, dated 31.03.2022, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2012-13, whereby the Ld. CIT(A) had partly allowed the appeal against the Assessment Order, dated 27.02.2015, passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Appellant has raised following grounds of appeals:
  - "1. *The learned CIT(A), NFAC, Delhi has erred both in law and on facts of the case in passing an order u/s 250 of the IT Act for AY 2012-13 on 31.03.2022.*

2. *The learned CIT(A) NFAC, Delhi has erred in confirming addition of Rs. 27,10,000 as unexplained cash credit.*
3. *Your Appellant craves leave to add, alter, amend and/or delete all or any of the grounds of Appeal before the Appeal is finally heard and decided by the Hon'ble Tribunal."*

3. The relevant facts, in brief, are that the Appellant is a private limited company carrying on business of manufacturing and trading of stationery items. For AY 2012-13 the Appellant filed return of income on 29.09.2012 declaring 'Nil' income. The case the Assessee was selected for scrutiny and assessment was framed under Section 143(3) the Act vide Assessment Order dated 27.02.2015 wherein following additions/disallowances were made.

Sl.No.	Particulars	Amount (INR)
1.	Unexplained cash credit	27,10,000
2.	Disallowance Misc. Factory Exp.	27,08,304
3.	Interests Cenvat & Sales Tax	681
4.	Disallowance of TA & DA	2,20,596
5.	Disallowance out of Wages	3,01,306
6.	Disallowance of Vehicle Exp.	14,369

4. Being aggrieved, the Appeal filed against the Assessment Order before CIT(A). Substantial relief was granted by the CIT(A), however, the addition of INR 27,10,000/- relating unexplained cash credit was confirmed. Therefore, the Appellant has preferred the present appeal.
5. None was present for the Appellant when the appeal was taken up for hearing. The Learned Departmental Representative

submitted that the addition of INR 27,10,000/- on account of unexplained cash deposit in the bank account of the Appellant was sustained by CIT(A) since the Appellant failed to provide copy of the cash book during the assessment proceedings and also substantiate the source of cash deposits in appellate proceedings before CIT(A). The CIT(A) had called for a remand report from the Assessing Officer. The Assessing Officer in his remand report pointed out the discrepancies in the explanation provided by the Appellant. As per the sales list provided by the Appellant a part of sales to particular party was reported to be made in cash and not the entire sales. Further, the cash receipts provided by the Appellant were issued in the month of August/September/December, 2011 whereas the cash deposits were made during the May, 2011 to July, 2011. On the basis of the aforesaid observations made by the Assessing Officer in the remand report, the CIT(A) concluded that the Appellant could not have deposited cash in the month of May to July 2011 when the cash was received in the month of August/September/December, 2011.

6. We have considered the contention advanced by the Ld. Departmental Representative and perused the material on record. We note that the Assessing Officer had made an addition of INR 27,10,000/- on account of unexplained cash deposits in the bank account of the Appellant since the Appellant had failed to produce the cash book. We note that in appellate proceedings the Appellant furnished copy of cash book for the relevant period showing transaction of cash receipts on various dates along with copy of bank statements. It was contended by the Appellant before CIT(A) that the source of cash deposited in the bank account consisted of cash sales

of INR 9,39,650/- to support the same the Appellant had filed 'sales list' which provided details of sales made in cash and on credit. We note that in relation to the first objection made by the Assessing Officer in the remand report pertaining to part of the sales made to a particular party in cash and part of the sales made to such party on credit, the CIT(A) had observed as under:

*"4.4.4 Two glaring inconsistencies have been pointed out by the assessing officer at the remand stage.*

1. *The argument that part of the sale to a party was made in cash and part in cheque is very inconsistent and also appear to be improbable argument. However, as the revenue does not have any jurisdiction to suggest as to how a business has to run by an assessee, this observation can at the best be supporting evidence." (Emphasis Supplied)*

7. Thus, the CIT(A) noted that the first objection raised by the Assessing Officer in the remand report could at best be considered as supporting evidence. Therefore, the order of CIT(A) confirming the addition was based upon the second objection raised by the Assessing Officer that cash deposits were made in the month of May to July, 2011 whereas cash receipts were issued in the month of August/September/December, 2011. In this regard, we note that the Appellant had sales turnover of INR 14,97,05,798/- (including cash sale of INR 9,39,650/-). The Appellant had tried to explain the source of cash deposited in bank account by contending that cash was also received from trade debtors in respect of credit sales and the same was disclosed in the books of accounts. At this point, it would be pertinent to refer to the following observations made by the Assessing Officer in this regard in the remand report:

*“Further, as per balance sheet, the cash on hand as on 01.04.2011 was Rs.3,52,697/- and the closing balance as on 31.03.2012 was Rs. 2,65,430/-. Thus, during the year the assessee had cash available on hand of Rs. 87,267/- only and no cash sales was reported as per the details of sales submitted by the assessee vide letter dated 27.01.2015. Since the accounts does not reflect cash deposits the assessee was requested vide order sheet noting dated 28.01.2015, to explain the cash deposits with facts but as the assessee failed to submit the same, the AO added the total cash deposits of Rs. 27.10 lakhs as unexplained cash credits. It is only during the remand proceeding that the assessee is providing a modified sales list which reflect cash sales. Further, on perusal of the sales list, it is surprising that only a part of the sales to a particular party has been reported as cash sales and not the entire sales. A person, if he has to make any purchases will not make part payment in cash and part payment in cheque. It is also surprising that the cash deposits are only during the months of May 2011 to July 2011 and the cash receipt has been issued in the month of August, 2011, Sept., 2011 and Dec., 2011 as well which indicated cash has been received in the months of August, 2011, Sept, 2011 and Dec., 2011 and no such deposits of cash is reflected in the bank statement. Normally, the cash receipt is issued as and when the cash is actually received other than the cheque received which is issued on clearance of the cheque.”  
(Emphasis Supplied)*

8. On perusal of above, we are of the view that while giving his comments/observations in the remand report the Assessing Officer did not carry out actual verification of the cash receipts from the parties making cash payments to the Appellant. The Appellant had furnished the Cash Book as well as Bank Statement. No discrepancy has been pointed out in the case. The CIT(A) decided the appeal on the basis of comments received from the Assessing Officer in the remand report without confronting the Appellant with the same. Keeping in view the aforesaid facts and circumstances we set aside the

order passed by the CIT(A) and remand the issue back to the file of CIT(A) for adjudication afresh after giving Appellant an opportunity of being heard. Ground No. 1 stands disposed off in view of the aforesaid directions, whereas Ground No. 2 is disposed off as being infructuous.

In the result, the present appeal by the Assessee is allowed for statistical purposes.

Order pronounced on 30.11.2022.

*Sd/-*  
(Prashant Maharishi)  
Accountant Member

*Sd/-*  
(Rahul Chaudhary)  
Judicial Member

मुंबई Mumbai; दिनांक Dated : 30.11.2022  
*Alindra, PS*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai