

आयकर अपीलीय अधिकरण, 'ए' / SMC न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' /SMC BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT

आयकरअपीलसं./I.T.A.No.764/Chny/2022

(निर्धारणवर्ष / Assessment Year: 2016-17)

M/s.Dilip Kumar & Sons 11/29, Elango Salai, Teynampet, Chennai-600 018.	Vs	The Assistant Commissioner of Income Tax, Central Circle-1(2) Chennai.
PAN: AADHD 6701N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. N.Arjunraj, C.A for Mr.S.Sridhar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. S.Chandrasekaran, JCIT

सुनवाईकीतारीख/Date of hearing	:	08.03.2023
घोषणाकीतारीख /Date of Pronouncement	:	10.03.2023

आदेश / ORDER

This appeal filed by the assessee is arising out of order of the Commissioner of Income Tax (Appeals)-18, Chennai dated 22.08.2022. The assessment was completed by the Assistant Commissioner of Income Tax, Central Circle-1(2), Chennai for the relevant assessment year 2016-17 u/s.143(3) of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 30.11.2018.

2. The only issue in this appeal of the assessee is as regards to order of the CIT(A) sustaining addition of Rs.20 lakhs made by the Assessing Officer as unexplained cash credits u/s.68 of the Act. For this issue, the assessee has raised

various grounds which are argumentative and factual, hence, need not be reproduced.

3. I have heard rival contentions and gone through facts and circumstances of the case. I noted that the assessee is a jewellery merchant doing business in the name and style of M/s. S.D Jewellers. The assessee is HUF. The Assessing Officer received information that the assessee has deposited a sum of Rs.25 lakhs during the demonetization period in specified bank notes from 09.11.2016 to 30.11.2016 amounting to Rs.25 lakhs. Now, before me the assessment year involved is 2016-17 and relevant to financial year 2015-16. The demonetization period does not come under the year under consideration. The Assessing Officer noted from the cash book for the financial year 2015-16 relevant to this assessment year 2016-17 that the assessee has shown opening cash balance as on 01.04.2015 at Rs.25,44,809/-, but the assessee has shown cash balance in its return of income filed for assessment year 2015-16 relevant to financial year 2014-15 as 'Nil' cash as on 31.03.2015. Accordingly, the Assessing Officer required the assessee to explain as to why opening cash of Rs.25,44,809/-

shown as on 01.04.2015 be not treated as unexplained cash credit in the books of account of the assessee and be not taxed. The assessee replied that for financial year 2014-15 relevant to the assessment year 2015-16, the assessee filed return in Form No. ITR-4S admitting income u/s.44AD of the Act, as the assessee has not maintained any books of account. Hence, due to mistake, he could not disclose this cash in hand. Now, before me, the learned counsel for the assessee filed cash book pertaining to M/s. S.D. Jewellers from page 5 to 8 of assessee's paper book, wherein cash generation and cash withdrawal are shown. This cash book pertains to financial year 01.04.2014 to 31.03.2015 and closing balance as per this cash book is Rs.24,60,562/-. The assessee in support of cash book also filed Vat returns, financial statements consolidated for the year ending 31.03.2015 and 31.03.2016. The learned counsel for the assessee only requested that the same be verified and matter may be remitted back to the file of the Assessing Officer for considering these evidences, because the assessee failed to file the same before the Assessing Officer or CIT(A) during assessment proceedings or appellate proceedings at first stage.

4. The learned Sr.D.R clearly objected and stated that these are manufactured documents and not reliable at all.

5. I have taken note of documents filed by the assessee consisting of nine pages, including cash book of the assessee for assessment year 2015-16 for relevant financial year 2014-15. But, it is a fact that the assessee has not disclosed this cash balance as on 31.03.2015 in the return of income filed in Form ITR-4S, which is available on record and produced by the learned Sr.D.R.

6. After hearing both the sides and going through facts of the case, I am of the view that the assessee is unable to explain source of this cash, except one argument made that cash deposit is made during demonetization period and that should have been assessed in assessment year 2017-18. I do not agree with the explanation of the assessee and this cash balance as on 01.04.2015 is shown by the assessee just to explain out cash deposited by the assessee during demonetization period amounting to Rs.25.00 lakhs. Hence, I dismiss appeal of the assessee, whereby the Assessing Officer himself has added only a sum of Rs.20,00,000/-. Hence,

addition of Rs.20.00 lakhs is confirmed and appeal of the assessee is dismissed.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 10th March, 2023

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

चेन्नई/Chennai,
दिनांक/Dated 10.03.2023
DS

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.