

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री मनोज कुमार अग्रवाल, लेखा सदस्य एवं
श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.266/Chny/2022
निर्धारण वर्ष/Assessment Year: 2017-18

Mr.Ganesan Kadirvel,
80/2, Maravaneri Court Road,
Aishwaryas Garden, Salem.

v. The Dy. Commissioner-
of Income Tax,
Circle-I(1),
Salem.

[PAN:ALDPK 1628 C]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.G.Baskar, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Mr.D. Hema Bhupal, JCIT

सुनवाईकीतारीख/Date of Hearing

: 18.04.2023

घोषणाकीतारीख /Date of Pronouncement

: 28.04.2023

आदेश / ORDER

PER MANOMOHAN DAS, JM:

Aforesaid appeal by the assessee is directed against the order dated 21-03-2022 passed by Ld. Commissioner of Income Tax (Appeals), ("CIT(A)") National Faceless Appeal Centre (NFAC), Delhi passed under section 250 of the Income Tax Act, 1961 ("the Act") pertaining to Assessment year ("AY") 2017-18.

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

1. The Commissioner of Income-tax (Appeals) having reproduced at Page 7 of appellate order the fact that only "Demonetized Currency Deposits" made between 10-11-2016 and 30-12-2016 were being considered, such deposits of Rs.36,29,500/- alone ought to have been taken into account and not Rs.1.94 crores.

2. As cash deposits made into bank were recorded in tax audited books of account, it should have been accepted that there was no need for a separate explanation for their sources.

3. All purchases being from reputed companies and most of the sales verifiable, and as cash deposits made were much less than sales in trading account, no addition ought to have been made.

4. As activity in Bharti Airtel Mobile Coupons commenced only on 25-02-2016, cash deposits being more during year ended 31-03-2017 should not have suspected.

5. As sales out of which cash deposits were made are considered in trading, adding deposits amounts to taxing same amount twice over.

6. Judgements relied upon by Assessing Officer ought not to have been cited by Commissioner (Appeals) again, ignoring written submissions filed distinguishing them.

7.As Section 69A applies only to unrecorded money and as amounts credited in Business books constitute business income, computing tax under section 115BBE is incorrect (35 1TR 416 SC, 20 ITR 579 and 27 ITR 658 Bom)

For these and other reasons, which may be stated at the time of hearing of the appeal, it is prayed that the addition made to income may please be deleted.

3. The brief facts of the case are that the assessee is an individual and stated to be engaged as authorized distributor of Mobile recharge coupons, locker and door

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closures of products of Godrej Co, Fevical, Himalaya's Cosmetic Co., Samsung Mobile Phones and accessories, MTR Foods Products, TTK Health Care Ltd. etc. During the previous year relevant to the Assessment Year 2017-18, the assessee e-filed its return of income on 30-10-2017 declaring total income of Rs.29,79,690/- which was e-processed under section 143(1) of the Act. The case was selected for scrutiny under CASS as there was cash deposit during demonetization period and abnormal increase in cash deposits during the demonetization period as compared to pre-demonetization period.

4. In the course of assessment proceedings, the Assessing Officer issued notice to the assessee u/s 143(2) of the Act on 22-09-2018 which was served upon him on 26-09-2018. Subsequently, notice under section 142(1) was issued to the assessee on 16-10-2019 asking him to submit the details of source of cash deposit, source of advances received, investments made / assets acquired

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during the year, Profit & Loss A/c, income computation statement, copy of sales tax return, TDS Reconciliation as per Form 16/16A & 26AS statement etc. for verification.

The details sought from the assessee were as under:-

(i) the details of sources of cash deposits made into the bank account along with reconciliation of bank account entries and cash book.

(ii) Explanation regarding the sources for cash deposit made during the period of demonetization. The assessee was asked to provide explanation in a prescribed format and other information as stated in the assessment order dated 15-12-2019.

5. Since assessee did not respond, another notice was issued to him on 22-11-2019 giving final opportunity to submit the requisite details.

6. It was stated in the assessment order that the assessee had submitted the desired details other than cash deposit breakup and sources of cash deposit details.

7. Thereafter, the Assessing Officer examined the reply submitted by the assessee and the information available in his office and observed that the assessee made cash and credit deposits in the following bank accounts :-

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Name of Bank	Account Number	Demonetization currency Deposits during Demonetization period (9.11.2016 to 30.12.2016)
		Cash
IOB	00800200090093	77,39,080
IOB	00802000012835	95,33,880
IOB	211702000005730	21,51,287
Total		1,94,24,247/-

8. The Assessing Officer, in para No. 5(a) of his assessment order dated 15-12-2019, stated that the aforesaid cash deposit of Rs.1,94,24,247 made during the period of demonetization into the accounts of the assessee remained unexplained as to its nature and source. Therefore, the said amount was added to the total income of the assessee.

9. Being aggrieved, the assessee filed first appeal before the Ld. CIT-(A). The Ld. CIT-(A), vide impugned order dated 21-03-2022, rejected the appeal of the assessee merely by endorsing the observation of the Assessing Officer.

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10. Aggrieved, the assessee is in further appeal before Tribunal.

11. Heard the representatives of both the parties and perused the materials on records.

12. The Ld. Representative of the assessee submitted that the allegation that there was no response to the notices issued by the Ld. Assessing Officer, are not correct. In this regard, Ld. AR pointed out detailed submissions made by assessee vide its reply dated 03.12.2019 as well as submissions made before Ld. CIT(A) on 31-12-2020. The same are kept on page nos. 36 to 76 of paper-book. The Ld. AR submitted that the assessee furnished the denomination of currency, reasons for increase in turnover along with cash deposited by the assessee. The assessee also furnished summary of total cash deposits during various periods along with month-wise purchase and sales, etc. The list of parties to whom sales were made, realizations of amounts received from the parties including

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cash sales of mobile recharge coupons was also furnished. The details were e-filed before the Assessing Officer under acknowledgment. The Ld. AR submitted that all the purchases were made by the assessee through banking channels and the products sold by the assessee were covered under VAT/GST which are evidenced by the returns filed under those acts. According to Ld. AR, the assessment order alleging that details were not submitted was not factually correct.

13. The Ld. AR also submitted that the audited books of account and Chartered Accountant's Report in Forms 3CB and 3CD were filed to the Assessing Officer during the assessment proceeding and the Assessing Officer did not point out a single defect in the accounts. He also disputed the finding of the Assessing Officer that Rs.1,94,24,247/- is the demonetized currency. His claim is that demonetized currency is only for Rs. 36,29,500/-.

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14. On the other hand, the Ld. DR has supported both the assessment order as well as the order passed by the Ld. CIT-(A). He submitted that the assessee failed to submit the requisite details in support of its claim.

15. After hearing both the parties and upon perusal of relevant material on record, we observe from the assessment order that the Assessee has submitted the requisite details including submissions as pointed out by Ld. AR. It appears that the reply furnished by the assessee was examined partially by lower authorities which is clear from the body of assessment order as well as impugned order. The Assessing Officer did not state in the assessment order how the materials submitted by the assessee were inadequate regarding the source of cash credit. In our view, if the materials submitted by the assessee were inadequate in ascertaining the source of cash deposit, the Assessing Officer ought to discuss the same in the assessment order. The Ld. CIT(A) has merely

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endorsed the view of Ld. A.O without rendering any independent findings.

16. In view of the above stated facts, we deem it fit to set aside the impugned order and remand the matter back to the Assessing Officer for passing a fresh assessment order on the impugned issues. Needless to add that the Assessing Officer will give reasonable opportunity of hearing to the assessee. The assessee, in turn, is directed to substantiate its claim.

17. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 28th day of April, 2023, in Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखासदस्य/ACCOUNTANT MEMBER

Sd/-

(मनोमोहन दास)

(MANOMOHAN DAS)

न्यायिकसदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 28th April, 2023.

TLN

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आदेशकीप्रतिलिपिअग्रेषित /**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. विभागीयप्रतिनिधि/DR
4. आयकरआयुक्त (अपील)/CIT(A)
5. गार्डफाईल/GF