

अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्रीमहावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 593/CHNY/2022

निर्धारण वर्ष /Assessment Year:2017-18

Shri V. Sengutuvan,
No.25, Sir C.V. Raman Road,
Alwarpet, Chennai – 600 018.

The ACIT,
v. Central Circle 1(1),
Chennai.

PAN: BBWPS 3097M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Ms. S. Vidya, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 19.04.2023

घोषणा की तारीख/Date of Pronouncement

: 19.04.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-18, Chennai in ITA No.149/19-20/CIT(A)-18 dated 07.06.2022. The assessment was framed by the ACIT, Central Circle 1(1), Chennai for the assessment year 2017-18 u/s. 143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 07.06.2022.

2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the order of AO, confirming the addition of unexplained cash credit amounting to Rs.2,14,14,396/- u/s.68 of the Act. For this, assessee has raised various grounds which need not be reproduced.

3. Brief facts are that the AO during the course of assessment proceedings, noticed from information available with the Department that the assessee has deposited large value of cash in bank accounts during demonetization period amounting to Rs.3,92,80,826/- in assessee's three savings bank account maintained with Indian Bank and one savings bank account with Karur Vysya Bank Ltd. On verification of cash deposits made by assessee during demonetization period in the bank account of M/s. Kamalam Medical Corporation noted that the deposits during 09.11.2016 to 31.12.2016 was Rs.2,52,86,046/- compared with cash deposit during corresponding period in financial year 2015-16 i.e., 09.11.2015 to 31.12.2015 at Rs.63 lakhs, which was abnormal growth of 301% in the amount of cash deposit during demonetization period. The assessee explained that the cash

deposits were made out of cash balance available in the books of accounts of Rs.2,51,64,274/-. The AO noted that there was an abnormal growth of 77% in the cash deposits during demonetization period and assessee has not furnished any information like source of deposit or the amount collected from whom and deposited in cash. Since the required information was not produced, the AO treated the sum of Rs.2,14,14,396/- as unexplained cash out of total cash of Rs.3,92,80,826/-. The AO treated the balance cash of Rs.94,59,210/- as explained being cash deposits out of available cash. Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) also confirmed the action of the AO by observing in para 7.4 as under:-

7.4 I have considered the submissions of the AR and the findings of the AO. The AO has considered the deposits made in the two bank accounts only, though he has found that the deposits were made in the other two bank accounts with Indian Bank. The deposits allowed by the AO amounted Rs.84,07,220 (Rs.26,35,005 + 57,72,215). Apart from the above, the AO has allowed Rs.94,59,210 as probable cash available for the appellant to deposit during demonetization period. The appellant was not able to adduce any reason as to why such huge cash balance was kept on hand without depositing the same into the Bank. The appellant had not shown that the cash was kept for any emergency expenses. In fact, expenses more than Rs.20000 cannot be made in

cash as it would be violative of the provisions of section 40A(3). The fact that the appellant used to make withdrawals from the bank frequently despite of his claim that he had huge cash balances in his books would only support the inference that the appellant had not maintained such huge cash balance as claimed by it. In view of the above distinguishing facts, the case laws relied on by the assessee are misplaced. I feel that the allowance given by the AO was more reasonable and also on sound grounds. I therefore confirm the addition of Rs.2,14,14,396/- made by the AO and dismiss the grounds raised.

5. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee before AO could not file the required information such as details of persons from whom such cash was collected. Now before us, assessee filed a paper-book consisting of cash transactions containing 79 pages. The assessee has filed complete details of name and address to whom cash sales was made on account of sale of medicines which was never examined because these details were not available before AO or CIT(A). Since these details are vital and there is no adjudication by CIT(A) on the actual facts, we are inclined to remit the matter back to the file of the AO. The assessee will produce these details before AO, who will examine the cash sales vis-à-vis the notification issued by RBI accepting cash and falling in exception category. In case assessee's case

falls in exception category, the AO will consider the cash sales and after examination decide the issue afresh. The appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 19th April, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 19th April, 2023

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|---------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त /CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF. | |