

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.7240/Del/2018
निर्धारणवर्ष/Assessment Year:2011-12

Arjun Bery B-443, New Friends Colony, New Delhi.	<u>बनाम</u> Vs.	ACIT Circle 24(1) New Delhi.
PAN No. AENPB2697D		
अपीलार्थी Appellant		प्रत्यर्थी/ Respondent

Assessee by	None
Revenue by	Shri Kanv Bali, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	23.05.2023
उद्घोषणाकीतारीख/Pronouncement on	29.05.2023

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-31, New Delhi dated 06.09.2018 for the AY 2011-12 in sustaining the addition of Rs.19,11,372/- u/s 68 of the Act as income from undisclosed sources and Rs.1,50,89,500/- as an unexplained cash credit u/s 68 in respect of cash deposits made into bank account.

2. In spite of issue of several notices, none appeared on behalf of the assessee nor any adjournment was moved. The record suggests that the

notice issued through speed post with acknowledgement due fixing the date of hearing on 16.03.2022, 05.09.2022 and 23.05.2023 returned un-served by the postal authorities with an endorsement that the assessee left from the address. Therefore, this appeal is disposed of on hearing the Ld. DR.

3. Brief facts are that the assessee who is in the business of trading in shares and fabrics filed return of income on 28.09.2021 declaring loss of Rs.28,67,227/-. The assessment was completed u/s 143(3) of the Act determining the income of the assessee at Rs.1,70,00,870/-. In the course of assessment proceedings the AO noticed that as per ITS/AIR details various cash transactions appeared in the bank account of the assessee amounting to Rs.1,50,89,500/-. The assessee was required to explain the source of cash deposits made into bank account. The assessee replied that cash deposits amounting to Rs.1,50,89,500/- are from cash in hand and also out of sale of fabrics. Though, the AO required the Assessee to furnish the purchase invoices and sales invoices of fabric along with party wise details of sales Assessee did not furnish the details except sales ledger. On analyzing the trading and profit and loss account of fabrics the AO also noticed that without any opening or closing stock purchases have been shown at Rs.27,96,549/- and sales at Rs.30,90,585/- and therefore, the AO came to the conclusion that these are fictitious, bogus sales, only to introduce unaccounted money in the books of account. AO also required the assessee to furnish reply as to

why the books of account should not be rejected as no documents/invoices regarding sales/purchases have been produced. There was no reply filed by the assessee and the AO concluded that purchases of the assessee are not genuine and they have been shown only to generate cash via sales which are nothing but bogus. Therefore, the AO treated Rs.19,11,372/- being the sales made from 02.04.2010 till 06.04.2010 as undisclosed income of the assessee u/s 68 of the Act as the sales were made in the month of April 2010 without there being any opening stock by the assessee.

4. The AO also treated cash deposits of Rs.1,50,89,500/- into bank account as there was no satisfactory reply furnished by the assessee proving the identity, genuineness and creditworthiness within the meaning of Section 68 of the Act. The AO concluded that since the sale of fabrics in itself is found to be bogus the cash deposits made cannot be considered to be genuine. On appeal the Ld.CIT(A) sustained the additions made by the AO.

5. Ld. DR strongly placed reliance on the authorities below.

6. Heard Ld. DR, perused the orders of the authorities below. The Ld.CIT(A) considering the submissions made by the assessee as well as the averments in the assessment order sustained the addition of Rs.19,11,372/- in respect of income from undisclosed sources observing as under: -

“6.2 I have examined the facts at hand and appellant's submissions. This is a case where the appellant is claiming that he carried out business of trading in fabrics. The appellant claims to have purchased goods on credit. The sales were all made in cash. It is noted that as and when bank balance was needed by the appellant, the same was generated by deposit of cash in the bank account. The source of deposit of cash was attributed to the sale of fabrics in cash. Interestingly, all fabrics were sold in cash. The AO specifically required names of the persons to whom cash sales were made. Name of not even one person was provided. Further, there is return of cash sales also-still the appellant did not provided the name of the buyer who returned the goods. The creditworthiness of persons, who supposedly provided goods on credit to the appellant, has not been established. Not a single penny has been recorded a cartage inward in the trading account. No other direct expenses relating to purchase and sale of fabrics have been debited in the trading/ PL account. All sales of fabrics have been shown to have been made in the month of April and May 2010. The appellant claims that payment was made to supplier of fabrics once goods were sold. It is surprising that most of the goods were sold in the month of April and May 2010. The payment to the supplier was made [as claimed by the appellant, through banking channel] on 28.10.2010. The delay in paying bank the supplier of goods goes against reasonableness.

Out of total sale of Rs.30,90,585/- the sale made in the month of April was Rs.8,86,713/-, and in the month of May was Rs.22,03,872/-. No opening stock of goods was shown.

All these facts lead to a firm conclusion that the entire cash sale and trade in fabrics is a 'make believe' story. Accordingly, the addition made by the AO is hereby upheld. The appellant loses with regard to grounds 2 and 3.”

Further the addition made u/s 68 in respect of cash deposits of Rs.1,50,89,500/- made by the assessee was sustained observing as under:

“7.4 I have examined the facts at hand, I have studied the appellant's submissions. The appellant made huge deposit in the cash in his bank account. The cash was deposited as and when the appellant wanted to have a bank balance for making payments through banking channels. Among the

sources of deposit, the appellant has explained deposits to be out of sale of fabrics. I have already adjudicated in my adjudication for grounds 2 and 3 above, that the so called business of sale of fabrics was bogus, and was a mere use for generating cash for depositing in the bank account to generate a balance in the bank. It is also noted, that the opening and closing balance of cash were not sufficient, as noted by the AO, for depositing Rs.1,50,89,500/- in the bank account. In this view of the matter, the action of the AO is upheld. The appellant fails with regard to ground no.4.”

7. Before us, none of the above findings of the Ld.CIT(A) have been rebutted with evidences in spite of giving several opportunities to the assessee. On a careful perusal of the order of the Ld.CIT(A), we do not find any valid reason to interfere with the findings of the authorities below. Thus, we sustain the order of the Ld.CIT(A) and reject the grounds raised by the assessee.

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

Order pronounced in the open court on 29.05.2023

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 29.05.2023

*Kavita Arora, Sr. P.S.

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi