

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : C : NEW DELHI
BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.2852/Del/2022
Assessment Year: 2017-18

J.R. Rice India Pvt. Ltd., 5593/94, Lahori Gate, Main Road, Naya Bazar, Delhi.	Vs	ACIT, Circle-13(1), New Delhi.
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PAN: AACCCJ1734F

(Appellants)

(Respondent)

Assessee by	:	Shri Suresh K. Gupta, CA
Revenue by	:	Shri Anuj Garg, Sr. DR
Date of Hearing	:	10.05.2023
Date of Pronouncement	:	31.07.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.2852/Del/2022 for AY 2017-18 arise out of the order of the National Faceless Appeal Centre (NFAC) (hereinafter referred to as the 'Id. CIT(A)') dated 30.11.2022 in DIN & Order No.ITBA/NFAC/S/250/2022-23/1047739597(1) against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.12.2019 by the Assessing Officer, Circle-13(1), Delhi (hereinafter referred to as 'Id. AO').

2. The only effective issue to be decided in this appeal is as to whether the Id.CIT(A) was justified in confirming the addition made in the sum of Rs.52,60,000/- u/s 68 of the Act r.w.s. 115BBE of the Act in respect of cash deposits made during demonetization period, in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. The assessee is engaged in trading and processing of food grains. The assessee filed its original return of income on 12.07.2017 declaring total income of Rs.1,38,97,643/-. Later, a revised return was filed on 29.05.2018 showing the same total income of Rs.1,38,97,643/-. The Id. AO observed that the assessee had deposited specified bank notes (SBN) of Rs.52,60,000/- in bank during the demonetization period starting from 09.11.2016 to 30.12.2016. The assessee was directed by the Id. AO to furnish the details of the same together with the sources. The assessee, vide letter dated 06.12.2019 submitted the reply by stating that it is engaged in the business of trading and processing of food grains and it has been doing regularly cash sales over the last several years since inception of its business. It was submitted that a total sum of Rs.1,44,74,730/- was deposited in the month of November, 2016 in cash which included the sum of Rs.52,60,000/- in old currency notes. The assessee further submitted that the total cash deposited during the year was Rs.15.51 crores which worked out to 6.4% of gross sales. For the immediately preceding year i.e., AY 2016-17, the assessee had deposited cash in the sum of Rs.18.52 crores which worked out to 8.67% of gross sales of that year. The Id. AO

observed that the cash deposited by the assessee during the year to the tune of Rs.15.51 crores includes cash of Rs.15,43,49,743/- received from debtors during the year. Accordingly, the Id. AO vide notice dated 12.12.2019 sought to examine the veracity of the debtors and cash received from them. The assessee was asked to provide the names and addresses of the debtors from whom the cash was received. In response, the assessee submitted confirmations from 12 parties out of total 1624 debtors. In respect of the remaining 1612 cases, neither any details of PAN nor complete addresses of the debtors were furnished. Accordingly, the Id. AO disbelieved the entire explanation given by the assessee and proceeded to make an addition of Rs.52,60,000/- in respect of cash deposits made in specified bank notes during the demonetization period as unexplained cash credit u/s 68 of the Act r.w.s. 115BBE of the Act.

4. It is not in dispute that the assessee company is maintaining regular books of account which is duly subjected to statutory audit under the Companies Act and tax audit u/s 44AB of the Income-tax Act. It is not in dispute that the cash deposits made by the assessee are duly sourced by cash sales and recovery of trade debts from the sundry debtors in cash. Hence, the source of cash deposits are properly explained by the assessee. The nature and source of credit being sale proceeds received from the customers stands duly proved and explained. Hence, *prima facie*, no addition could be made u/s 68 of the Act. The assessee had made sales to various parties in cash out of sufficient stocks available with it. The quantitative

details maintained in the stock registers were duly furnished by the assessee before the Id. AO. No discrepancy whatsoever has been found by the Id. AO in respect of the stock position held as on 08.11.2016 and cash sales made and cash recoveries made thereafter. To the extent of cash sales made, the corresponding stocks have been duly reduced in the stock register. Hence, there is no reason to dispute the fact that the cash deposits in bank account had been sourced out of either cash sales made by the assessee during the demonetization period or cash recoveries made from its customers prior to the demonetization period. The cash book was duly furnished before the Id. AO for the whole year. On none of the days, the cash balance was negative. The books of account comprising cash book, general ledger, stock register, bank passbook, purchase ledger, sales ledger, etc., were duly furnished before the Id. AO and no deficiencies were pointed out thereon by the Id. AO and the said books were not rejected by the Id. AO. The details of cash received from various debtors were duly furnished by the assessee comprising the name of the party, address, amount due, amounts received and balance due from the said party. These details are also enclosed in pages 154 to 193 of the paper book filed before us. It is a fact on record that the assessee had made total cash sales recovery of Rs.15,43,49,743/- during the year and out of this, only a sum of Rs.52.60 lakhs is disputed by the Id. AO. From the business model operated by the assessee, the assessee has been regularly making cash and credit sales to these customers. The customers pay the dues to the assessee only in cash and as stated, supra, a sum of Rs.15.43 crores has been received during the year under

consideration from the customers. The cash so received is deposited by the assessee in its bank account on a regular basis. In the mean time, demonetization has been announced by the Government of India, but, the assessee was indeed holding cash in specified bank notes (demonetized currency) with it, which requires to be deposited in the bank account, which was duly done by the assessee. As stated earlier, the assessee is having sufficient cash balance in its books to make the said cash deposits in the bank account and all the transactions thereon have been duly reflected in the books of account and accepted by the Id. AO. Even in the case of 1612 cases where incomplete details were furnished according to the Id. AO, the Id. AO had proceeded to add only Rs.52,60,000/- and had accepted the remaining cash receipts from those debtors. This acts as a clinching evidence in favour of the assessee that the business model operated by the assessee mandates receipt of cash from its customers towards sales and after meeting its business expenses, the cash balance available is being deposited in the bank account. This is the regular pattern followed by the assessee during the year and also in the earlier years. It is also pertinent to note the said business pattern and business model operated by the assessee has been examined by the Id. AO in earlier years in scrutiny assessment proceedings and accepted by the Id. AO after making minor disallowance of expenses of personal nature. We find that scrutiny assessment orders were framed u/s 143(3) of the Act on 31.03.2014, 29.02.2016 and 25.07.2016 for assessment years 2012-13, 2013-14 and 2014-15 respectively. Even the Standard Operating Procedure (SOP) issued by the Department vide CBDT Instruction No.03/2017 dated

21.02.2017 in connection with the assessment of demonetization deposits clearly states that there should not be abnormal jump in cash sales and in the instant case cash is deposited within one or two days from the time of its receipt. At the cost of repetition, to the extent of sales made, the stock position is also correspondingly reduced by the assessee which goes to prove the genuineness of the claim of the assessee. On examination of the cash book of the assessee, we find that the assessee had cash balance of Rs.55,93,580/- as on 08.11.2016, i.e., the date on which demonetization was announced, which sufficiently explains the source of deposit of Rs.52,60,000/- in specified bank notes. Apart from this, the assessee had duly furnished the month wise details of sales, month wise details of purchase, corresponding freight charges incurred month wise, month wise power and fuel expenses and month wise selling expenses in the form of rebate and discount. The assessee also furnished the quantitative details of goods month wise for rice, sugar, *chana dal* and wheat flour before the Id. AO. All these facts clearly go to prove the genuineness claim made by the assessee that cash deposits of Rs.52,60,000/- has been made out of cash balance available with the assessee and, hence, in our considered opinion, there is absolutely no case made out by the Revenue for making addition u/s 68 of the Act. In the instant case, we find that none of the parameters mentioned in the SOP dated 21.02.2017 issued by the CBDT for assessment of demonetization cases is applicable. There is no abnormal jump in cash sales during demonetization period as compared to earlier history; there is no abnormal jump in percentage of cash sales; the cash deposit was made only on two dates,

i.e., on 10.11.2016 of Rs.20,60,000/- and on 11.11.2016 of Rs.32,00,000/- in specified bank notes in two different bank accounts; there is sufficient stock available with the assessee; and there was no occasion to inflate the stocks by introducing fictitious purchases by the assessee ; there was no transfer of deposited cash to another account or other entity which are not relevant for the assessee. Hence, even as per the SOP dated 21.02.2017 issued by the CBDT which is mandatorily to be followed by the Revenue authorities, no addition could be made in the instant case.

5. In view of the aforesaid observations, we hold that the addition made in the sum of Rs.52,60,000/- in the instant case in the hands of the assessee is grossly unjustified and, hence, are hereby directed to be deleted. Accordingly, the grounds raised by the assessee are allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 31.07.2023.

Sd/-

(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 31st July, 2023.

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi