

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE,
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.1814/Del/2022
(ASSESSMENT YEAR 2017-18)**

Himanshu Arora H-24, New Govinda Pura Delhi-110 051 PAN-ASCPA 4713A (Appellant)	Vs.	Income Tax Officer Ward-58(1) (Respondent)
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Appellant by	None
Respondent by	Mr. T. James Singson, CIT-DR

Date of Hearing	21/08/2023
Date of Pronouncement	13/09/2023

ORDER

PER M. BALAGANESH AM:

This appeal of the assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)'] in DIN & Order No. ITBA/NFAC/S/250/2022-23/1043458604(1), dated 16/06/2020 against the order passed by Income Tax Officer, Ward-58(1), Delhi (hereinafter referred to as the 'Ld. AO') u/s

143(3) of the Income Tax Act,1961 (hereinafter referred to as 'the Act') on 24/12/2019 for the Assessment Year 2017-18.

2. None appeared on behalf of the assessee. Notice sent to the address mentioned in Form No.36 has been returned with postal remarks "no such person". Hence, we proceed to dispose of this appeal on hearing the Ld. DR and based on material available on record.

3. The only effective issue to be decided in this appeal is as to whether the Ld. CIT(A), NFAC was justified in confirming the addition made u/s 69A of the Act in the sum of Rs.10,03,11,450/- towards alleged cash deposits in bank account in the facts and circumstances of the instant case.

4. We have heard the Ld. DR and perused the material available on record. The assessee is an individual engaged in the business of trading of fabric/textile in the name and style of HDS Enterprise. The return of income for AY 2017-18 was filed by the assessee on 01/11/2017 declaring total income of Rs.9,09,900/-. During the course of assessment proceedings, the Ld. AO asked the assessee to explain the source of cash deposits made during demonetization period in his bank account as under:-

- (i) Bank Account No.387261006023
with Canara Bank -Rs.9,93,14,450/-
- (ii) Bank Account No.135805500988
with ICICI Bank -Rs.63,97,000/-

The assessee responded to the said query that the details that are available with the Ld. AO with regard to the cash deposits made, are incorrect and that the assessee has only deposited cash of Rs.1,23,05,000/- in his bank accounts, the details of which are as under:

1. Canara Bank - Rs. 56,42,000/-
2. ICICI Bank -Rs.66,63,000/-

The assessee submitted the month wise cash and credit sale details to the Ld. AO to justify the source of cash deposits. The assessee also submitted that he had made cash sales even before the demonetization period and also during the demonetization period. The summary of cash sales and credit sales made during the period April, 2016 to March, 2017 are as under:

Month	Cash Sales	Credit Sales	Total
April 2016 to March 2017	3,94,59,452	6,77,96,850	10,72,56,301

It was also pointed out cash was deposited by the assessee throughout the year out of the cash collected from the debtors against the sales made. The details of cash deposits made as under:

Period of Financial Year 2016-17	Cash deposited in Bank Account
From 01/04/2016 to 07/11/2016	Rs.3,54,58,960/-
From 08/11/2016 to 31/12/2016	Rs.1,23,05,000/-
From 01/01/2017 to 31/03/2017	Rs.80,47,600/-

The assessee during the assessment proceedings submitted the date wise details of cash deposited during demonetization period, details of cash sales made during the year including demonetization period, copy of sales and purchase invoices, bank statement etc to substantiate the fact, that cash deposited in the bank accounts during demonetization period represents the cash sales made by the assessee which has already been accounted in the books of accounts of as sale of goods. It was further submitted that the assessee had also submitted an affidavit dated 06/12/2019 before the Ld. AO affirming that cash deposit was only Rs.1,23,05,000/- and not Rs,10,03,11,450/- as alleged by the ld. AO. The assessee also informed to the Ld. AO that summary generated through Income Tax Portal (i.e., Cash Transactions 2016) also shows that cash deposit of Rs.1,23,05,000/- only.

5. The Ld. AO, however, did not heed to the aforesaid contentions of the assessee and proceeded to treat the sum of Rs.10,03,11,540/- as cash deposits made in the bank accounts taxable u/s 69A of the Act.

6. Before the Ld. CIT(A), the assessee kept on taking time for furnishing various details in form of paper book and ultimately could not make effective representation which enabled the Ld. CIT(A) to confirm the addition made by the Ld. AO. From perusal of the order of the Ld. CIT(A), we find that though effective opportunities were indeed given to the assessee, still the assessee could not utilize the same by furnishing the requisite details in support of his contention. However, we find that whether the assessee has made cash deposits of Rs.1,23,05,000/- or Rs.10,03,11,450/- is a factual matter which could be cross verified from bank statements. Even if the assessee does not co-operate before the Lower Authorities, still this factual matter could be verified by the Revenue by cross verification with the bank statement, which has not been done in the instant case. Hence, in the interest of justice and fair play, we deem it fit and appropriate, to restore this issue to the file of Ld. AO for *denovo* adjudication in

accordance with law. The assessee is at liberty to furnish further evidences, if any, in support of his contention. The Ld. AO is also directed to ascertain the fact of actual cash deposited by the assessee from the bank by collecting bank statements thereon. With these directions, the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13th September, 2023.

Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 13/09/2023

Pk/sps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI