

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **808/Chny/2023**  
निर्धारण वर्ष / Assessment Year: 2017-18

Amar Sparklers Factory  
74, Velayutham Road,  
Sivakasi 626 123,  
Tamil Nadu.

Income Tax Officer,  
v. Ward 1,  
Virudhunagar.

**[PAN: AAFFA-4270-G]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Shri. V. Rajasekaran, CA  
: Shri. P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 05.10.2023

घोषणा की तारीख/Date of Pronouncement

: 11.10.2023

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 26.5.2023 and pertains to assessment year 2017-18.

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

***"Issue 1:*** Adding of Rs. 662783 being shortage of sources for cash deposits in bank accounts of appellant as unexplained money u/s 69 A of Income Tax Act,1961.

- Appellant explained source for cash deposit in bank accounts for Rs.66329288 against the explanation sought for Rs. 66250166/
- The source for cash deposit Rs. 66329288 was not disputed by A.O
- As such the shortage of sources for cash deposit Rs. 662783 is wrong.

**Issue2:** Adding cash credits Rs.20,40,000 in appellants bank accounts after 08/11/2016 in the form of SBN to the total income u/s.69 of Income Tax Act,1961.

- The Respectable Commissioner of Income Tax, Madurai- 1 was not justified while passing the order u/s.250 of the Income Tax Act dated 26/05/2023 for the Assessment year 2017-18 dismissing the claim of appellant allowings SBN Rs.2040000/- after 08/11/2016 for exchange by the persons other than banking company.
- The learned CIT (A) erred in not considering the replies filed by the appellant in proper perspective.
- The learned CIT (A) failed to appreciate the fact that the cash deposits into the bank, made by the appellant after 08/11/2016 were out of Advance for supply of fireworks and the appellant submitted list of all persons from whom cash received along with PAN i.e all are identifiable persons (for sales to them) and there is no unidentifiable persons and all were duly accounted in the books of accounts. Hence, the AO's conclusion the of not accepting the customers is wrong. cash deposits in assessee's account by the
- The learned CIT(A) failed to appreciate the fact that the A.O. did not follow the standard operation procedure instruction.
- The learned CIT (A) erred in not considering the fact that the Assessing Officer erred in making an addition of Rs.2040000/- treating it as unexplained money u/s.68 without any basis.
- The learned CIT (A) erred in not considering the scope and effect of the specified bank" Notes (cessation of liabilities) Act dated 28/02/2017 properly.
- The Appellant relies on the decisions in the following cases:
  - i) Rahul Cold Storage, Gunderdehi Road, Vill-potiyadih, Dhamtari (C.G) - 493 773(IT A.No. 123/RPR/2022)

*ii) Manasa Medicals, JPN Road, Shivamogga. (IT A.No.552/Bang/2022)*

*iii) Mrs.Umamaheswari, D.No.12A, Perumal Konar Street, VPC Nagar, Coimbatore South, Coimbatore. (ITA No.527/Chny/2.)"*

3. The brief facts of the case are that, the assessee, M/s. Amar Sparklers Factory, filed its return of income for the assessment year 2017-18 on 28.02.2019, admitting an income of Rs. 6,59,610/-. The case was selected for scrutiny to verify huge cash deposits during demonetization period and accordingly, notice u/s. 143(2) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") dated 20.08.2018, was issued and duly served on the assessee. During the course of assessment proceedings, the AO obtained details of cash deposits to State Bank of India, SME Branch, Sivakasi, IDBI Bank, Sivakasi, Axis Bank, Sivakasi, IndusInd Bank Limited, Sivakasi and Punjab National Bank, Sivakasi u/s. 133(6) of the Act. Further, on the basis of bank statement and other details submitted by the assessee, the AO noticed that the assessee has deposited sum of Rs. 93,53,786/- cash to bank account during demonetization period. The AO, called upon the assessee to explain source for cash deposits, for which the assessee has filed cash flow statement and explained that source for cash deposits is out of closing cash balance as on

08.11.2016 plus cash received from debtors (sales from 01.04.2016 to 31.10.2016) and advance received from group concerns. The cash flow statement filed by the assessee has been extracted in page 4 & 5 of assessment order and as per said cash flow statement, the assessee could not able to explain source for cash deposits to the tune of Rs. 6,62,783/-. Therefore, the AO taking into account relevant details and cash flow statement filed by the assessee opined that, the assessee could not explain source for cash deposits to the tune of Rs. 6,62,783/-. Further, although the assessee claims to have received advance from group concerns amounting to Rs. 20,40,000/-, but said advance has been received in specified bank notes of Rs. 1,000/- & Rs. 500/- against the notification issued by the RBI. Therefore, rejected explanation furnished by the assessee and made additions of Rs. 27,02,783/-.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee could not adduce any additional evidence to justify source for cash deposits. Therefore, the Id. CIT(A) sustained additions made by the AO towards cash deposits

u/s. 69A of the Act. Being aggrieved by the CIT(A) order, the assessee is in appeal before us.

5. The Id. Counsel for the assessee referring to page no. 3 & 4 of assessment order submitted that, the total cash deposits/transactions in bank account was estimated at Rs. 6.63 crores and as against this, the appellant has explained source for Rs. 6.56 crores. Therefore, the AO is erred in making additions towards balance amount of Rs. 6,62,783/-. He, further submitted that in so far as advance received from group concern, the appellant has filed all details including PAN no. of the persons who paid the cash. Further, the customers are directly deposited cash into assessee's bank account during demonetization period. Therefore, once source is explained for cash deposits, then no addition can be made u/s. 69A of the Act. The Id. CIT(A), without appreciating relevant facts simply discussed the issue of cash shortage at Rs. 6,62,783/-, but there is no findings in so far as cash received from group concerns amounting to Rs. 20,40,000/-. Therefore, the Id. Counsel for the assessee submitted that additions made by the AO should be deleted.

6. The Id. Sr. AR, Shri. P. Sajit Kumar, JCIT, submitted that the assessee could not explain source for cash deposits to the tune of Rs. 6,62,783/-, which is clear from cash flow statement filed by the appellant during assessment proceedings. Further, although assessee claims to have received Rs. 20,40,000/- as advance during demonetization period from group concerns, but such advance has been received in specified bank notes after 08.11.2016 in violation of Circular/notification issued by RBI. Therefore, the AO has rightly rejected explanation offered by the assessee and made additions towards cash deposits u/s. 69A of the Act and their order should be upheld.

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. In so far as addition of Rs. 6,62,783/-, we find that the assessee itself has admitted shortage of source in their cash flow statement filed before the AO. Therefore, from the above, it is undoubtedly clear that the assessee could not explain source for cash deposits to the extent of Rs. 6,62,783/- and thus, we are of the considered view that, there is no error in the reasons given by the CIT(A) to sustain

additions made towards cash deposits to the tune of Rs. 6,62,783/-. In so far as addition of Rs. 20,40,000/- towards advance received from group concerns, it was an argument of the appellant that group concerns have paid advance in cash during demonetization period and deposited into IDBI bank account. In this regard, the appellant has filed necessary details including PAN nos. and confirmation letters from the group concerns to prove receipt of trade advance. The Assessing Officer has not disputed these facts, however made additions only on the ground that the assessee should not have accepted cash in specified bank notes after 08.11.2016. We find that this issue is covered in favour of the assessee by the decision of ITAT, Chennai Benches in the case of M/s. Micky Fireworks Industries vs ACIT in ITA No. 264/Chny/2023, dated 26.07.2023, where the Tribunal under identical set of facts deleted additions made by the Assessing Officer, and the findings of the Tribunal is reproduced as under:

*"4. From the facts, the undisputed position that emerges is that the assessee has made sale of fireworks during festival season. The sales are duly accounted for by the assessee in the books of accounts. The accounts have duly been audited. The assessee has realized debtors out of such sale in SBN which have been deposited in the bank account of the assessee. The cash deposited by the assessee has duly been accounted for in the books of accounts. The Ld. AO has not alleged any bogus sales or back dated sales made by the*

assessee. No defect has been pointed in the books of accounts as maintained by the assessee.

5. It could also be seen that during the course of assessment proceedings, various notices were issued u/s 142(1) from time to time calling numerous details from the assessee. The assessee was required to file numerous details including monthly cash flow statement, inventory of closing stock, copy of sales tax assessment order, monthly cash deposits and credits for various periods, ledger account for purchase and other expenditure, monthly sales gross receipts, monthly purchases, details of old notes and new notes deposited during demonetization period, the day book, Cash book, ledger maintained for business, cash balance as per cash book etc. All these details were duly submitted by assessee vide reply dated 12-12-2019. The assessee also submitted month-wise cash deposits in all bank accounts, details of old notes deposited at the time of demonetization period. Pertinently, the assessee also furnished details of name, address and PAN of cash depositors who deposited cash during demonetization period. The same has been detailed on pages 24 to 35 of the paper book. Apparently, the same could not be faulted with by Ld. AO. There is no allegation of any irregularity in the books of accounts.

6. We find that the only reasoning to treat the said deposits as unexplained cash credit u/s 68 is that the assessee was debarred from dealing in SBN after 08-11-2016. However, in the present case, the cash so received by the assessee is backed by sales carried out by the assessee as recorded in the books of accounts. Therefore, the source of cash is duly explained. The provisions of Sec.68 could be invoked only in cases when there was unexplained cash credit in the books of accounts maintained by the assessee. However, the assessee has duly identified the debtors from whom the cash was received and the same could not be disputed by lower authorities. The PAN of respective debtors as well as quantum of cash realized from each of them has duly been detailed by the assessee before Ld. AO during assessment proceedings. No defect has been pointed out in the books of accounts. In such a case, the credit could not be held to be unexplained cash credit and the impugned additions are not sustainable in law.

7. The SMC bench of this Tribunal in **Mrs. Umamaheswari Vs. ITO (supra)**, on identical facts, deleted similar additions on the ground that the assessee had duly evidenced the source of cash deposit and therefore, addition could not be made u/s 68. Similar is another decision of SMC Raipur Bench in **Rahul**

**Cold Storage Vs. ITO (supra)** wherein it has similarly been held that when the deposits were sourced out of business receipts duly recorded in the books of accounts, no such addition could be made u/s 68. The other cited decision of Bangalore Tribunal is also on similar lines.

8. Considering the facts and circumstances of the case, we find force in assessee's case and therefore, delete the impugned addition as made u/s 68. We order so. The Ld. AO is directed to re-compute the income of the assessee."

8. In this view of the matter and by following the decision of ITAT, Chennai Benches, we direct the AO to delete additions made towards source for cash deposits at Rs. 20,40,000/- u/s. 69A of the Act.

9. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the court on 11<sup>th</sup> October, 2023 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(मंजुनाथ. जी)**  
**(MANJUNATHA. G)**  
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 11<sup>th</sup> October, 2023

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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