

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : A : NEW DELHI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.2631/Del/2022  
Assessment Year: 2017-18

DCIT,  
CC-17,  
New Delhi.

Vs Akshardham Jewellers Pvt.  
Ltd.,  
D-32, Central Market Part-2,  
Lajpat Nagar,  
New Delhi.

PAN: AAECR5351A

(Appellant)

(Respondent)

Assessee by : Shri Nirbhay Mehta, Advocate &  
Shri Anoop Mehta, CA  
Revenue by : Shri Zafarul Haque Tanweer, CIT, DR  
Date of Hearing : 26.10.2023  
Date of Pronouncement : 31.10.2023

ORDER

PER KUL BHARAT, JM:

This appeal by the Revenue pertaining to Assessment Year 2017-18 is directed against the order of the Id.CIT(A)-27, New Delhi, dated 18.08.2022. The Revenue has raised the following grounds of appeal:-

*"1. The Ld. CIT(A) has erred in deleting the addition of Rs.3,84,35,000/- on account of cash deposited during the demonetization period by accepting the additional evidence under rule 46A of the I. T. Rules, 1962 submitted by the assessee ignoring the*

*fact that the assessee deliberately failed to submit the evidence during the assessment proceedings and it was not prevented by any sufficient cause to submit the same during the assessment proceedings.*

*2. The Ld. CIT(A) has erred in deleting the addition of cash deposited during the demonetization period ignoring the fact that the cash deposited out of cash sale for the month of November, 2016 was significantly higher which is around more than double to the cash sale during the same month.*

*3. The Ld. CIT(A) has erred in deleting the addition ignoring the fact that cash deposited by the assessee in earlier years as well as subsequent year was always less than the cash sales in that particular month which prove that the assessee deposited its unaccounted cash during demonetization period in the garb of cash sales.*

*4. The appellant craves to add, alter any/all of the grounds of appeal before or during the course of the hearing of the appeal."*

2. The facts giving rise to the present appeal are that the assessee is a company duly incorporated under the Companies Act. A search and seizure operation u/s 132 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') was carried out on 14.12.2016 in the case of the assessee company at the business premises. The assessee, thereafter, filed its income-tax return declaring Rs.3,66,65,580/- through electronic mode on 28<sup>th</sup> March, 2018. Thereafter, the case was taken up for scrutiny assessment and notice u/s 143(2) of the Act was issued on 31.07.2018. In response thereto, the Id. Authorized representative attended the proceedings. The AO noted that the assessee is engaged in the business of manufacturing and trading of gold and diamond jewellery at various locations in Delhi. While framing the assessment, the AO rejected the books of the assessee and made additions on account of cash deposits during the demonetization period amounting to Rs.4,67,20,000/-. The AO, rejecting the explanation offered by the assessee, made

addition of Rs.4,67,20,000/-. The AO further made addition on account of difference in stocks amounting to Rs.2,17,05,339/- and also made addition of Rs.1,15,038/- in respect of gross profit. Further, the AO made addition of Rs.2 crore being the amount admitted by the Director of the company. Further, the AO made addition on account of unsecured loan amounting to Rs.15 lakh and on account of unverifiable expenses amounting to Rs.8,37,128/-. Hence, the AO assessed income at Rs.10,75,43,059/-. The only effective ground in this appeal is against deleting the addition of Rs.3,84,35,000/- on account of cash deposited during the demonetization period.

3. The Id. DR supported the assessment order and submitted that the Id.CIT(A) was not justified in deleting the addition as the amount was deposited in bank account reflecting it as a cash sales.

4. On the other hand, the Id. Counsel of the assessee opposed the submissions and submitted that the Id.CIT(A) has given due opportunity to the AO and has deleted the addition after considering the remand report submitted by the assessing authority. He drew our attention to the remand report submitted by the AO. He further drew our attention to the past history of the assessee who has been making cash sales. He contended that there is no substantial increase in the cash sales and the Id.CIT(A) has considered all the facts and has given finding of fact which the Revenue has not rebutted.

5. We have heard the submissions of the Id. Representatives of the parties. It is seen that the Id.CIT(A) has given a finding that actual deposits were Rs.3,84,35,000/- only and wrongly mentioned by the assessee as Rs.4,67,20,000/-. Further, the Id.CIT(A) has elaborately examined the issue in the impugned order and has given finding of the fact in paras 11.5 and 11.7 of his order. For the sake of clarity, the relevant contents of the finding of the Id.CIT(A) are reproduced below:-

*"11.5 From the analysis of the above data, following inferences can be drawn:*

*(i) The appellant had been making regular cash sales in preceding as well as succeeding assessment years, apart from the year under consideration. This data shows that the appellant had sufficient items below Rs 2 Lakhs, which are being sold in cash regularly.*

*(ii) The appellant is depositing all these cash sales in its regular bank accounts only as is evident from the above tables. In some years, the cash deposits are more than the cash sales, which may be due to opening cash in hand and other cash receipts.*

*(iii) Month wise cash sales of the appellant for various months for FYs 2015-16 to FY 2017-18 do not show any abnormal trend.*

*(iv) % of cash sales to total sales for the month of October and November also do not show any abnormality. In fact, October 2015 figure is much higher than the corresponding figure for 2016. Had there been any backdating to increase the cash sales for October and November 2016(up to 8th), it would have resulted in higher percentage of Cash sales to Total sales.*

*(v) VAT returns have also been filed and accepted by the Sales Department*

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*11.7 Now, in the present case,*

*i. The cash receipts are credited in the sales account and had been included in the profit declared by the assessee in its return of income.*

*ii. The AO has accepted the stock as per books of account while arriving at the undisclosed stock, (para 12 of this order).*

*iii. He has applied the same GP ratio as declared by the assessee while calculating the profit element on unaccounted sales, (para 13 of this order).*

*iv. The accounts of the appellant are audited by the certified Chartered Accountant.*

*v. The AO neither at assessment stage nor at remand stage could identify any defect in sales register, stock register, purchase register and cash book prepared as on date of search i.e. 14.12.2016 and more particularly as on date of demonetisation. This is also not a case of AO that there was any back dating."*

6. The aforesaid finding of the Id.CIT(A) is supported by the evidence and the Revenue has not rebutted the same by placing any contrary material on record. It is seen that in the preceding and subsequent year the assessee has made cash sales during the month of November. Merely because demonetisation was in progress cannot be the basis to suspect the genuine business transactions. The Revenue has not brought any material to controvert the finding of the Id.CIT(A). Therefore, we do not see any infirmity in the impugned order. The same is hereby affirmed. The grounds raised by the Revenue are devoid of merit.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 31.10.2023.

Sd/-

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)  
JUDICIAL MEMBER

Dated: 31<sup>st</sup> October, 2023.

dk

Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi