

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 2514/Mum/2023
(A.Y: 2017-18)

Abjayoni Trading Pvt Ltd 12 Vasant Heights, Bldg 74, Shanti Park, Mira Road (E), Thane-4011107, Maharashtra.	Vs.	DCIT. CC – 2(2), 8 th Floor, Pratishta Bhavan, M.K.Road, Mumbai-400020.
PAN/GIR No. : AAJCA2177N		
Appellant	..	Respondent

Assessee by :	Shri Neeraj Mangla.AR
Revenue by :	Shri G.J. Ninawe, Sr. DR

Date of Hearing	02.11.2023
Date of Pronouncement	08.11.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC)Delhi / CIT(A) passed u/s 144 and U/sec 250 of the Ac. The assessee has raised the following grounds of appeal:

- 1. That the assessment order passed by Ld AO as well as the appellate order passed by Ld CIT(A) are bad in law and have been passed in contravention of prevailing law as well as facts of the case, therefore liable to be annulled*

2 That the Ld AO grossly erred in law and in facts of the case in holding cash withdrawals of Rs10,50,000/- as cash deposits and thereafter assessing the same as unexplained money u/s 69A of the Act.

3That the Ld AO grossly erred in law and in facts of the case in assessing cash deposits of Rs27,92,000/- made during demonetization period as unexplained money u/s 69A of the Act.

4That the appellant seeks leave to amend, alter, change any grounds of appeal or take any further ground at any time even during the course of hearing of instant appeal..

2. The brief facts of the case that, the assessee is engaged in the business. The Assessing Officer (AO) has received information that during the demonetization period the assessee has made cash deposits of Rs.27,92,000/- in the eight bank accounts. Whereas the AO has issued notice u/s 142(1) of the Act calling for various details and to explain the sources of deposits. Since there was no compliance, the AO has invoked the provisions of Sec. 144(1)(b) of the Act and made best judgment assessment. The AO has dealt on the facts and issued notice U/sec133(6) of the Act on the banks for the account statements. Finally the A.O has relied on the credits in

bank statements and made an addition u/sec 69A of the Act of Rs. 38,42,000/- and assessed the total income of Rs. 38,42,000/- and passed the order u/sec 144 of the Act dated 23.12.2019.

3. Aggrieved by the order the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, submissions of the assessee and findings of the AO and observed that the cash deposits could not match with the sources and withdrawals by the assessee and has confirmed the action of the AO and dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) erred in not considering the explanations on the cash deposits and the assessee company was not existing at the time of passing of order u/s 144 of the Act and the Ld.AR substantiated the submissions with the paper book and prayed for allowing the appeal.

5. Contra, the Ld. DR submitted that the assessee has not informed about the dissolution of the company in the

course of assessment proceedings and relied on the CIT(A) order.

6. Heard the rival submissions and perused the material on record. The sole matrix of the disputed issue, as the CIT(A) has erred in confirming the action of the AO on the addition of cash deposits, irrespective of the fact that the assessee has substantiated with the material information in the proceeding. The Ld. AR submitted that the assessee company was strike off from the register of companies of ROC-Mumbai on 12.09.2018 and whereas the assessment order U/sec144 of the Act was passed on 23.12.2019. The Ld.AR demonstrated the notice of striking off placed at page 1 to 6 of the Paper book. When a query was raised to Ld.AR for not submitting the information of Strike off of the assessee company in the assessee proceedings the explanations of the Ld.AR are not satisfactory and the Ld.AR prayed for an opportunity for substantiating the details before the lower authorities. Therefore considering the facts, circumstances and to meet the ends of justice, set aside the order of the CIT(A) and restore the disputed issues to the file of the Assessing officer to adjudicate fresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in filling the

information and allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 08.11.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 08.11.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai