

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC” DELHI  
BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.2467/DEL/2023

Assessment Year 2017-18

I J Paint Industries, A-93, Okhla Industrial Area, Delhi.	Vs.	ITO, Ward-29(5), Delhi.
TAN/PAN: AAAFI9884Q		
(Appellant)		(Respondent)

Appellant by:	Shri Nitin Gulati, Adv.		
Respondent by:	Shri Om Parkash, Sr.DR		
Date of hearing:	23	11	2023
Date of pronouncement:	23	11	2023

**ORDER**

**PER PRADIP KUMAR KEDIA-A.M. :**

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('CIT(A)' in short) dated 08.08.2023 arising from the assessment order dated 07.12.2019 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2017-18.

2. The assessee has filed concise grounds of appeal in the captioned appeal which is reproduced hereunder:

*“1. That the assessment order is bad in law and against the principal of natural justice requiring rectification/set aside of additions, and interest, penalty thereon and ld. CIT(A) has erred in upholding the same.*

*2. That the Notice under section 143(2) dated 22/09/2018 of the income tax act was mailed to Appellant for computer aided scrutiny regarding large cash deposited during demonetization the same was replied vide e-proceeding response as under.*

*(i) Appellant firm has maintained proper books of accounts and are duly audited*

- (ii) Appellant firm are covered under the provisions of vat.
- (iii) Appellant firm sale has increased near Diwali.
- (iv) Appellant firms' deposit in account are also supported by payment of taxation of vat.
- (v) any other information from us is most welcome.

*The said facts were ignored by the Assessing officer and and Ld. CIT(A) has erred in upholding the same.*

*3. That notice u/s 142 (1) dated 07/02/2019 annexing the annexure calling for the information from Appellant has been replied by mail downloading the requisite pages of ledger bank statements etc. No deficiency in said papers have been pointed out in the order justifying the additions there by. The fact has been over looked by the Assessing officer and Ld. CIT(A) has erred in upholding the same.*

*4. That Appellant's case was selected for scrutiny through cases for limited scrutiny for large cash deposited during demonetization of Rs.34,09,000/- income has been assessed to Rs.34,65,130 /- (returned income Rs. 56130/- addition Rs. 34,09,000/-) in computation sheet income from other sources has been shown RS 68,18,000/- and the addition of the same to income from business as per income tax return Rs.56131 has been summed up and increased the total income to Rs 136,36,000/- in the assessment order and Tax payable Rs 1,05,51,154/- is calculated, which is against the limited scrutiny proceedings and the addition of 68,18,000 as above no where explained in the order. This is further against the law and erroneous. This also shows complete non application of mind by the Assessing officer and Ld. CIT(A) has erred in upholding the same.*

*5. That No notice received u/s 142(1) dated nil and show cause notice u/s 144 of the act as mentioned in assessment order u/s 143(3) dated 07/12/2019. Even perusal of site of income tax portal no such notice exists. The said fact has been ignored by the Assessing officer and Ld. CIT(A) has erred in upholding the same*

*6. That Payment of said deposit is no where shown as additions /deposits in balance sheet except to addition of sale figure in the profit loss account and the Appellant is covered under taxation of vat the additions as said is without.*

*7. That the appellant reserves the right to add alter and amend or to delete any or all the grounds of appeal on or before the date of hearing.”*

3. When the matter was called for hearing, the ld. counsel at the outset submitted that the assessee is engaged in the business of

manufacturing of paint, putty and thinner. The return filed by the assessee declaring total income at Rs.1,23,760/- was subjected to limited scrutiny assessment. In the course of the scrutiny assessment, the AO called for the details of cash deposits during the demonization period which details were duly filed as can be seen from the observations in paragraph 3 of the assessment order. The AO however thereafter invoked provisions of Section 144 alleging non submission of complete details. The AO ultimately passed the order under Section 143(3) of the Act which implies that the details were filed as called for. The AO made an addition of Rs.34,09,000/- deposited in cash during demonetization period alleging lack of genuineness towards source of such deposit.

4. Aggrieved, the assessee preferred appeal before the CIT(A).

4.1 The CIT(A) by a cryptic finding dislodged all arguments placed by the assessee to support its case. The ld. counsel pointed out that findings of the CIT(A) are based with palpable discrepancies; firstly, he has observed that the assessment was completed under Section 144 of the Act which is untrue on the face of it; secondly, the additions have been confirmed on the ground that comparative analysis of deposits during the same period in last three years were not provided. In this regard, the ld. counsel submitted that no details were ever called for and therefore, no opportunity was made available to the assessee to justify the source of deposits; thirdly, the ld. CIT(A) has failed to apply his mind to the fact that the cash deposit is sourced out of cash sales which is already taxed in the ordinary course and impugned addition has the effect of double addition. The ld. counsel thus sought appropriate relief in the matter.

5. The Id. DR for the Revenue, on the other hand, supported the order of the CIT(A) and that of AO and submitted that fault lies at the doorsteps of the assessee for non furnishing of relevant details. The Id. DR thus submitted that no interference is called for.

6. I have carefully considered the relevant submissions and perused the material available on record.

7. I find merit in the plea of the assessee towards lack of opportunity to justify the *bona fides* of cash deposits. On perusal, it appears that the assessee did file certain documents, ledger accounts, bank statements, cash book etc. to explain the source of deposit. Ostensibly, the CIT(A) has not dealt with the documents in proper perspective.

8. Under the circumstances, without expressing any opinion on merits, I consider it expedient to restore the matter back to the file of the Assessing Officer for framing assessment afresh in accordance with law after giving proper opportunity to the assessee. It shall be open to the assessee to explain its entire case afresh and place all arguments and adduce such evidences as may be necessary for proper determination of taxable income.

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

**Order was pronounced and dictated in the open Court on 23/11/2023**

**Sd/-**

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**

DATED: /11/2023

Prabhat