

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 706/Ahd/2023
Assessment Year 2017-18**

M/s. Arvindbhai Kalyanbhai Textile, Ahmedabad PAN: AAXFA0990N (Appellant)	Vs	The Income Tax Officer, Ward-5(3)(4), Ahmedabad, (Respondent)
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Assessee by: Ms. Urvashi Sodhan, A.R.

Revenue by: Ms. Saumya Pandey Jain, Sr. D.R.

Date of hearing : 04-01-2024

Date of pronouncement : 12-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 18-07-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

"1. Ld. CIT(A) (NFAC) erred in law and on facts in confirming addition made by AO of Rs. 12, 54, 100/- as unexplained cash credit u/s 68 of the Act.

2. Ld. CIT(A) (NFAC) erred in law and on facts in confirming huge addition not appreciating bank statements and bank books

submitted to explain that cash deposited in bank account was from cash sales, opening cash balance and cash withdrawal from pre demonetization period.

3. Ld. CIT(A) (NBAC) ought to have deleted addition specially when books of accounts are duly audited and no adverse remark regarding cash deposits is made by the Auditors.

4. Ld. CIT (A) (NBAC) erred in law and on facts in observing that in absence of stock statement, purchase details etc. claim of cash generation from cash sales could not be verified despite cash sale account with cash statement wherein it plotted deposit & withdrawal from each bank is submitted.

5. Levy of interest u/s 234A/234B, 234C & 234D of the Act is unjustified.

6. Initiation of penalty proceedings u/s 271(1)(c) of the Act is unjustified.”

3. The assessee is engaged in trading of cloth. The assessee filed return of income on 06-11-2017 declaring total income at Rs. 10,74,130/-. The return was processed u/s. 143(1) of the Act, 1961. The assessee is taxed in status of firm. Notice u/s. 143(2) was issued on 09-08-2018 and notice u/s. 142(1) was issued on 17-06-2019 along with questionnaire. In response to the above notices, the assessee filed part submissions on various occasions filed the details called for. The Assessing Officer observed that the assessee made large payment of advance tax in cash during demonetization period and has claimed refund of substantive amount later. The assessee has given its reply and after taking into account the same, the Assessing Officer made addition of Rs. 12,54,100/- as

unexplained cash credit u/s. 68 of the Act and added for taxation as provided u/s. 115BBE of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. has filed the application for additional evidences along with the entire cash book for financial year 2016-17 and audit report and annual accounts for the financial year 2015-16. The ld. A.R. submitted that the observations of the CIT(A) that the assessee did not file any stock statement, project details was not entirely correct as the assessee has shown the relevant pages of the same including the cash sales, opening cash balance, sufficient cash and the same was in fact accepted by the Revenue during the assessment proceedings. There was sufficient evidence and therefore the additional evidences also should be admitted and in support of the earlier evidences submitted before the Assessing Officer, the addition should be deleted.

6. The ld. D.R. submitted that the annual cash book was not submitted and the bank accounts of three banks does not give the clear picture. The ld. D.R. objected the admission of additional evidences and submitted that the similar

statements should be accepted without entire cash book and therefore CIT(A) as well as Assessing Officer has rightly made the addition.

7. Heard both the parties and perused all the relevant material available on record. The assessee has filed cash sale account till 24th June, 2016 and the statement of cash in respect of cash instead of deposit and withdrawal from each bank. The additional evidences filed before the Tribunal at the time of hearing supports the case of the assessee that the cash sales were genuinely described and therefore the cash credit of Rs. 12,54,100/- was properly explained by the assessee. Therefore, additional evidences filed before the Tribunal are admitted. The contention of the ld. D.R. that firms has lapsed does not suffice as the evidences filed before the Assessing Officer as well as CIT(A) was sufficient enough to take cognizant view regarding the explanation of cash credit and deposits during demonetization period. The additional evidence is only a supportive evidence and therefore the contention/objection by the ld. D.R. is rejected. From the perusal of the records, it can be seen that the opening balance as given to the Assessing Officer was duly recorded in audited annual accounts which was very much before the Assessing Officer as well as the bank statements and bank book of three banks i.e. HDFC, BOI, Textile Co-operative Traders Bank Ltd.

was also before the Assessing Officer. The entire explanation for the cash deposits/credit in bank accounts was offered through the substantive evidence before the CIT(A). The assessee has given the cash sales register on 24-04-2016 and the statement of cash showing withdrawal and deposit in each should be taken into account by the CIT(A) for which the CIT(A) failed to take note of the same. Therefore, the appeal of the assessee is allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 12/01/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद