

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI**

**BEFORE,
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.275/Del/2022
(ASSESSMENT YEAR-2017-18)**

Yogesh Gupta B-310-A New Ashok Nagar Delhi-110 035 PAN-AFHGP 9585Q (Appellant)	Vs.	Asst. CIT Central Circle-29 New Delhi (Respondent)
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Appellant by	Sh. Anil Jain, CA
Respondent by	Sh. Vivek Vardhan, Sr. DR

Date of Hearing	09/01/2024
Date of Pronouncement	15/01/2024

ORDER

PER YOGESH KUMAR U.S., JM:

This appeal filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi, ["Ld. CIT(A)", for short], dated 25/11/2021 for Assessment Year 2017-18. The following grounds of appeal taken by the assessee:

- "1. The Ld. CIT(Appeals) has erred in confirming the assessed income of Rs.91,30,800 as against returned income of Rs.64,30,800.*
- 2. The Ld. CIT(A) has erred in confirming the addition made by AO of Rs.27,00,000 on account of cash deposited during demonization period treating it as addition u/s 69A of I.T. Act, 1961.*

3. The Ld. AO and CIT(A) has erred making the addition on assumptions and presumptions and not considering the submissions of the appellant.

4. The order of Ld. CIT(A) is against law and facts of case.

5. The appellant craves the right to add, amend or withdraw any grounds of appeal at the time of hearing.”

2. The brief facts of the case are that the assessee filed return of income for A.Y.2017-18 declaring total income of Rs.64,30,800/-, which was processed u/s 143(1) of the Act. The case was selected for scrutiny and notice was issued mentioning that during the demonetization period i.e., from 09/11/2016 to 31/12/2016, the assessee deposited an amount of Rs. 27,00,000/- by cash in the bank account which shows abnormal increase in sales with decrease in profitability compared to preceding year. An order u/s 143(3) has been passed by the A.O. making an addition of Rs.27,00,000/- u/s 69A of the Act.

3. As against the assessment order dated 12/12/2019, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 25/11/2021 dismissed the appeal filed by the assessee. Aggrieved by the order of the Ld. CIT(A) dated

12/12/2019, the assessee preferred the present appeal on the grounds mentioned above.

5. The Ld. Counsel for the assessee submitted that the assessee was engaged in the business of retail trading sector, where the cash sales were in exist which has been properly recorded in cash book and books of accounts are properly maintained. The assessee has submitted the Cash Book, Bank Accounts and its statement, Copies of Vat returns, copy of deeds, but the AO made addition arbitrary and in mechanical manner u/s 69A of the Act, without rejecting the books of accounts or finding fault in the books of account of the assessee. Based on the erroneous findings, the assessment has been made by the A.O., which has been confirmed by the Ld. CIT(A), therefore, sought for deletion of the additions.

6. Per contra, the Ld. DR relied on the orders of the lower authorities and sought for dismissal of the appeal filed by the assessee.

7. We have heard the parties and perused the materials available on record. During the assessment proceedings, the AO was of the

opinion that there is an abnormal increase in the sales with decrease in profitability compare to previous year, therefore, total cash amounting to Rs.27,00,000/- deposited during the demonetization period has been treated as unexplained investment and made addition u/s 69A of the Act. It is specific case of the assessee that the year under consideration was the first year in operation of the assessee's business, but the Ld. AO had committed error by comparing the fictitious sales of previous year without any basis. It is observed that the assessee was maintaining cash books and also regular books of accounts, at no point of time, the AO doubted the regular books of account of the assessee and without finding any fault in the books of account of the assessee, the Ld. AO proceeded to make addition u/s 69A of the Act. When the assessee maintained and produced the books of account and the cash books before the Ld. AO by offering the explanation and by submitting the copies of VAT returns to justify the sales and corresponding receipts of cash books deposited in bank, the Ld. AO without even disputing the books of account, committed an error in making addition u/s 69A of the Act, therefore, the addition made by the AO is not

sustainable, hence, the addition made by the AO u/s 69A of the Act which was confirmed by the CIT(A) is hereby deleted.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in open Court on 15th January, 2024.

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Dated: 15/01/2024

Pk/Sr.ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI