

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष**  
**Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member**

**I.T.A. No.1213/Kol/2023**  
**Assessment Year : 2017-18**

**Subodh Debnath.....Appellant**  
**C/o Subash Agarwal &**  
**Associates, Advocates,**  
**Siddha Gibson,**  
**1, Gibson Lane, Suite 213,**  
**2<sup>nd</sup> Floor, Kolkata – 700069.**  
**[PAN: CLDPD3024M]**

**vs.**

**ITO, Ward-2(4), Kolkata..... Respondent**

**Appearances by:**

Shri Siddharth Agarwal, Advocate, appeared on behalf of the appellant.  
Shri Subhro Das, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 01, 2024

Date of pronouncing the order : February 09, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 13.10.2023 of the National Faceless Appeal Centre [hereinafter referred to as the 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

*"1. For that on the facts and circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition made by the A.O to the tune of Rs.17,00,000/- being cash deposits during the demonetization period, by wrongly treating the same as unexplained cash credits u/s 69A of the Act.*

*2. Without prejudice to the above, the Ld. CIT(A) ought to have directed the Ld. A.O to estimate the profit percentage on the deposits as the deposits related to business receipts.*

*3. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing.”*

3. The brief facts of the case are that the Assessing Officer noticed that there was a deposit of Rs.17,00,000/- in the bank account of the assessee during demonetization period. On being asked to explain in this respect, the assessee submitted that he was engaged in trading business of agricultural commodities and he had made withdrawal of cash amounting to Rs.9,00,000/- on different dates, the details of which has been mentioned in para 4 of the assessment order. He further submitted that he had made credit purchase of Rs.7,00,000/- from some persons in the month of May 2016. The remaining cash was deposited out of the sales of the said credit purchases. The Assessing Officer, however, without examining the details furnished by the assessee and without any verification relating to the contentions of the assessee observed that it was not probable that the assessee would have made credit purchases as the assessee was a small businessman dealing with agricultural commodities. He also observed that it was not believable that the assessee sold his stock in the demonetization period as the transaction of old currency was prohibited by Government of India. He, therefore, treated the aforesaid deposits as unexplained income of the assessee.

4. The ld. CIT(A) confirmed the additions so made by the Assessing Officer.

5. We have heard the rival contentions and gone through the record. The ld. counsel for the assessee has relied upon page 11 of the paper-book which is a cash flow statement, whereby, he has demonstrated that there was opening cash in hand of Rs.41,061/- on 01.04.2016 and

cash in hand of Rs.17,44,681/- as on 07.11.2016, out of which a cash deposit of Rs.17,00,000/- was made in Bandhan Bank and there was a cash in hand of Rs.34,201/- as on 31.12.2016 and further a cash balance of Rs.46,719/- as on 31.03.2017. The assessee has duly accounted for the cash deposits during the period in his bank accounts. The ld. counsel has also relied upon various bills, invoices relating to the sales made by the assessee during the period. We find that the lower authorities, without calling or examining the details in relation to the contentions of the assessee, have rejected the claim of the assessee stating that the same was not believable. The Assessing Officer has made the impugned addition merely on conjectures and surmises which is not sustainable in the eyes of law. In view of this, the impugned additions made by the Assessing Officer are ordered to be deleted.

6. In the result, the appeal of the assessee stands allowed.

***Kolkata, the 9<sup>th</sup> February, 2024.***

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]  
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]  
न्यायिक सदस्य/Judicial Member

Dated: 09.02.2024.

RS

*Copy of the order forwarded to:*

1. Subodh Debnath
2. ITO, Ward-2(4), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches