

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE 'SMC' BENCHES :: PUNE

BEFORE SHRI INTURI RAMA RAO, HON. ACCOUNTANT MEMBER

ITA No.876/PUN/2023  
(A.Y. 2015-16)

Excellent Embroidery and Looms, Main Road, At post Navapur, Taluka Navapur, Dist. Nandurbar, Maharashtra	vs	ITO, Ward-4, Dhule.
PAN: AADFE 3382 J		
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Ganesh B. Budruk, DR
Date of hearing	:	13/02/2024
Date of pronouncement	:	15/02/2024

ORDER

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre [NFAC], Delhi, dated 06.06.2023 for A.Y.2015-16.

2. Brief facts of the case are that assessee is a firm engaged in the business of production and sale of gray fabrics, yarn fabrics and synthetic fabrics. Therefore, return of Income for the A.Y. 2015-16 was filed on 28/02/2017 declaring a loss of Rs. 985/-. The case of the assessee was selected for limited scrutiny under CASS. Against the said return of income, assessment was completed by the AO vide order dated 27/12/2017 passed u/sec. 143(3) assessed at a total income of Rs.37,91,880/-. While doing so, the AO made addition on

account of unexplained money deposited in Hasti Co-operative Bank with the following bank accounts:-

- a. Bank account No. 013007400000003 - Rs. 57,74,576/-
  - b. Bank account No. 013006700000008 - Rs. 3,95,000/-
  - c. Bank account No.013006700000007 - Rs. 1,99,000/-
- Total deposits - Rs.63,68,576/-

Out of the total deposits, the AO has treated a sum of Rs. 35,40,006/- as unexplained money u/sec. 69A of the Act rejecting the explanation of the assessee that the deposits were made out of money earlier withdrawn from his bank account by holding that assessee had failed to substantiate the reasons for withdrawing money from bank account and for redeposit the same in the same accounts. The AO also made disallowance the interest paid on term loan of Rs. 2,51,874/-.

3. Being aggrieved by the order of the AO, the assessee filed an appeal before the NFAC, who vide impugned order deleted the addition on account of interest on term loan of Rs. 2,51,874/-, however, confirmed the addition on account of unexplained cash deposits of Rs.35,40,006/- by adopting the same reasoning as adopted by the AO.

4. Aggrieved by the order of NFAC, the assessee is in appeal before this Tribunal. When the appeal was called, none appeared on behalf of the assessee despite due service of notice. Therefore, I proceed to dispose of the matter on merit based on material available on record.

The solitary issue involved in this appeal is whether the AO was justified in making the addition of Rs. 35,40,006/- as unexplained cash deposits as confirmed by the NFAC. I had carefully perused the orders of the lower authorities. The assessee had duly explained the source for cash deposits in his 03 banks accounts maintained with Hasti Co-operative Bank. The explanation tendered by the assessee is that the cash deposits were made out of cash withdrawal earlier from his bank accounts. The AO rejected the above explanation by holding that the assessee had failed to explain the reasons for withdrawal of money, even the NFAC adopted the same reasoning. In my considered opinion, the reasoning of the lower authorities cannot be sustained in the eyes of law for the reason that in absence of material on record to indicate the utilization of money withdrawn earlier from the bank, it is deemed that the same was available for subsequent deposits in the bank account. The reasons of the lower authorities cannot be upheld, however, since the AO had not examined the factum of availability of cash with reference to the entries in the bank accounts, I am of the considered opinion and in the interest of justice, the matter should be remanded back to the file of the AO for fresh consideration. Therefore, the impugned order passed by the NFAC is set aside and remand the matter to the file of AO with a direction for *de novo* assessment in accordance with law after affording reasonable opportunity of being heard to the assessee.

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

Order pronounced in open Court on 15<sup>th</sup> February, 2024.

Sd/-  
(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

Dated : 15<sup>th</sup> February, 2024

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "SMC" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary  
ITAT, Pune.