

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 3309/Del/2023
(Assessment Year: 2017-18)
Rajan Gupta, Vs. ACIT,
A-98, Kamla Nagar, Circle-35(1),
Delhi Delhi
(Appellant) (Respondent)
PAN: AAHPG2524Q

Assessee by : Shri Rakesh Jain, Adv
Revenue by: Shri Vivek Vardhan, Sr. DR

Date of Hearing 13/02/2024
Date of pronouncement 15/02/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.3309/Del/2023 for AY 2017-18, arises out of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/105715343(1) dated 17.10.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 26.12.2019 by the Assessing Officer, ACIT, Circle-35(1), Delhi (hereinafter referred to as 'Id. AO').

2. The only issue to be decided in this appeal is as to whether the Id CIT(A) was justified in confirming the addition of Rs. 69,38,000/- made on account of cash deposit made during the demonetization period by the assessee in the facts and circumstances in the instant case.

3. We have heard the rival submissions and perused the material available on record. The facts of the case are that assessee is the proprietor of M/s Bharat Cartons

Printers and engaged in the business of manufacturing of corrugated cartons and boxes and multilayer co-ex PE film. Assessee filed his return of income on 29.10.2017 declaring total income of Rs. 56,45,490/-. Books of accounts of assessee company are audited as per section 44AB of the Act and copy of Tax Audit Report & Audited Balance Sheet as on 31.03.2017 were filed along with the return of income.

4. The Id AO observed that the assessee had made cash deposit of Rs. 69,38,000/- during demonization period and Rs. 12 lakhs during July 2016. The assessee submitted that it had sufficient cash balance in its books arising out of cash sales made and cash withdrawals made during the year under consideration. In fact there was a cash deposit of Rs. 12 lakhs in July 2016 made by the assessee in the bank account which was explained by the assessee to have made out of cash withdrawals and cash balance available with him. This was accepted by the Id AO. Further, when similar explanation was given by the assessee for the cash deposit of Rs. 69,38,000/- made during the demonization period, the Id AO rejected the same and proceeded to treat the said sum of Rs. 69,38,000/- as income u/s 68 read with section 115BBE of the Act. This action of the Id AO was upheld by the Id CIT(A).

5. It is fact on record that assessee had indeed made cash withdrawals of Rs. 72,50,000/- in the month of October 2016 itself which is just a month prior to the announcement of demonization by the Govt. of India. The assessee also explained that the purpose of withdrawals of Rs. 72,50,000/- cash was for the purpose of payment to his factory workers as there was labour unrest in his factory at the end of September 2016. It was submitted that in the beginning of labour dispute, there were only few workers who wanted to claim their full and final settlement. But as days progressed, more and more workers joined the protest for full and final settlement. Accordingly, the assessee thought it fit to have sufficient cash balance in his kitty to discharge the labour dues as part of the full and final settlement for which purpose, huge cash withdrawals in the month of October, 2016 were made. On 08.11.2016, demonetization was announced by the Govt. of India and hence the assessee was forced to deposit the

available cash in specified bank notes in the bank account. The Bank Manager was refusing to collect the cash in huge sums and he was denying the same and ultimately on 21.12.2016, the Bank of Baroda Branch Manager allowed the assessee to deposit in one shot a sum of Rs. 69,38,000/- which was duly done by the assessee. In fact the assessee has furnished the entire cash book giving the daily cash balance for the period 01.04.2016 to 31.03.2017 before the lower authorities which is also enclosed at pages 37 to 66 of the paper book and after the said deposit of cash of Rs. 69,38,000/-, the assessee is left only with cash balance of Rs. 2,258/- on 21.12.2016. The assessee indeed had cash balance of Rs. 69,40,258/- as on 21.12.2016 which provides the source for making cash deposit of Rs. 69,38,000/- on the same day. Further, the demonization was announced by the Govt. of India on 08.11.2016, on which date, the assessee had cash balance of Rs. 71,91,359/- which is also evident from the cash book filed on record. We also find that the assessee had furnished week-wise cash sales of cash deposit made during the period 08.11.2016 to 31.12.2016 providing the details of opening cash in hand, cash withdrawals made from the bank, cash deposits made in the bank, cash sales made during the period and closing cash balance in tabular form which is reproduced as under:-

Year	Week Wise	Opening Cash in hand	Cash sales	Cash Deposited in bank	Cash Withdrawal from bank	Closing Cash in Hand
2016-17	08.11 to 12.11.16	7,197,215.00		•		7,069,624.00
	14.11 to 19.11.16	7,069,624.00			122,000.00	7,043,882.00
	21.11 to 26.11.16	7,043,882.00			124,000.00	7,067,699.00
	28.11. to 30.11.16	7,067,699.00			50,000.00	7,015,818.00
	01.12 to 06.12.16	7,015,818.00			79,000.00	7,059,917.00
	07.12 to 12.12.16	7,059,917.00			74,000.00	6,847,015.00
	13.12 to 18.12.16	6,847,015.00			20,000.00	6,823,209.00
	19.12 to 24.12.16	6,823,209.00		6,938,000.00	208,000.00	47,373.00
	26.12 to 31.12.16	47,373.00	2,646.00		208,000.00	144,561.00
	TOTAL		2,646.00	6,938,000.00	885,000.00	

6. The assessee also had explained after announcement of demonetization, the labour calmed down and agreed to work with the assessee on their previous terms and

conditions. In the instant case, the assessee had given proper explanation for withdrawal of cash in whole sums in the month of October, 2016 which evidently enabled him to hold huge cash balance to make cash deposit of Rs. 69,38,000/- on 22.12.2016 (i.e. during demonetization period). As stated earlier, similar cash deposit made by the assessee in the sum of Rs. 12 lakhs in July 2016 was also sourced out of cash balance available with the assessee in its books, which has been accepted by the revenue. From the perusal of the cash book, we find that there was absolutely no negative cash balance with the assessee on any single day. Once the cash book together with audited books of account and tax audit report filed by the assessee before the Id AO had not been rejected and once, there is sufficient cash balance available with the assessee to make cash deposit and the same are duly reflected in the books of account, there is no case for the revenue to hold that cash deposit were made out of undisclosed source of income of the assessee warranting any addition u/s 68 of the Act. In any case, it is for the revenue to prove that the cash withdrawals made earlier had been utilized by the assessee for some other purposes and the same was not available with the assessee as a cash source to explain the cash deposits. Hence, we have no hesitation to delete the addition made towards unexplained cash deposits during demonetization period in the instant case. Accordingly, grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 15/02/2024.

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 15/02/2024

A K Keot

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