

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1538/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2017-18

Sharp Electrodes Private  
Limited,  
330/2C1, Sitra Road,  
Kalapatti,  
Coimbatore – 641 035.

**[PAN: AADCS-8157-Q]**

(अपीलार्थी/Appellant)

Income Tax Officer,  
v. Corporate Ward -4,  
Coimbatore.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Abhishek Murali, CA

प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 21.02.2024

घोषणा की तारीख/Date of Pronouncement : 21.02.2024

**आदेश / O R D E R**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 23.11.2023 and pertains to assessment year 2017-18.

2. The assessee has raised the following grounds of appeal:

"(i) The order of the Assessing Officer/CIT(A) is erroneous, is contrary to law and opposed to the facts and circumstances of the case and principles of natural justice.

**No Opportunity to Explain - Ex-Parte order Passed:**

(ii) The Learned CIT(A) provided less than 6 days time for the response to the notice and the Appellant was unable to submit a response to the notice, before which the order was passed in a hurried manner.

(iii) The Learned CIT(A) ought to have appreciated that the Appeal was filed when the hearing for CIT(A) was done physically and notices were issued physically. However, without any express communication, it was transferred to faceless and disposed off without any opportunity.

**Cash Balance on 08/11/2015 wrongly considered instead of 8/11/2016 - Cash Already Fully Recorded in Books of Accounts - Deposits During Demonitisation:** (iv) The Learned AO/CIT(A) has failed to note that the cash deposited during demonitisation was Rs.27,00,000/- which is fully from the cash balance on the book of the Company on 08/11/2016.

(v) The Learned AO/CIT(A) has incorrectly considered the position of cash balance as on 08/11/2015 instead of 08/11/2016, despite the full details being given.

(vi) The Learned AO/CIT(A) ought to have noted that the cash balance as on 08/11/2016 is Rs.29,40,897/-, but he has wrongly considered the cash balance as Rs.5,00,000/- which is not relevant the date in consideration.

(vii) The Learned AO/CIT(A) ought to have appreciated that the entire cash deposits have been made out of cash balance in hand prior to the demonitisation date only.

(viii) Any other ground that may be raised at the time of personal hearing."

3. The brief facts of the case are that, the appellant company is engaged in the business of manufacturing of welding electrodes. The appellant company filed its return of income for the assessment year 2017-18 on 28.10.2017, declaring total income of Rs. 1,19,13,770/-. The case was selected for scrutiny and during the course of assessment

proceedings, the Assessing Officer noticed that, the assessee has made cash deposits of Rs. 27 lakhs in specified bank notes during demonetization period. Therefore, the Assessing Officer called upon the assessee to file necessary evidences to prove source for cash deposits. In response, the assessee submitted that the opening cash balance as on 09.11.2016 was at Rs. 29,40,897/-, as per cash book maintained by the assessee and out of opening cash in hand, the appellant company has deposited a sum of Rs. 27 lakhs in specified bank notes during demonetization period. The assessee has submitted relevant cash book extract to prove source for cash deposits. The Assessing Officer, however was not satisfied with the explanation furnished by the assessee and according to the Assessing Officer, although the appellant is having sufficient opening cash in hand as on 09.11.2016, but the appellant could not explain why it has periodically withdrawn cash from bank account when sufficient cash in hand was available. Therefore, rejected arguments of the assessee and made additions of Rs. 22 lakhs, out of Rs. 27 lakhs cash deposits in specified bank notes during demonetization period. The assessee carried the matter in appeal before the Id. CIT(A), but neither appeared nor filed any details, even though

the appeal was posted for hearing on three occasions. Therefore, the Id. CIT(A) dismissed appeal filed by the assessee and upheld additions made by the Assessing Officer towards cash deposits in specified bank notes during demonetization period.

4. The Ld. Counsel for the assessee, referring to the assessment order more particularly Para 2 of assessment order dated 17.12.2018, submitted that the Assessing Officer never disputed the fact that the appellant is having cash in hand as on 09.11.2016, in excess of cash deposits to bank account during demonetization period, but rejected explanation of the assessee only on surmises and suspicion ground that the assessee could not explain periodical cash withdrawal from bank account, without appreciating the fact that the assessee has withdrawn cash from bank and also spent for various expenses, which is evident from cash book filed by the assessee. Therefore, he submitted that additions made by the Assessing Officer should be deleted.

5. The Id. DR, on the other hand supporting the order of the Id. CIT(A) submitted that, the assessee could not explain as to

why it has periodically withdrawn cash from bank account, even though it has sufficient cash in hand out of previous withdrawal. Therefore, the Assessing Officer suspected cash book filed by the assessee and made additions towards cash deposits into bank account during demonetization period and their order should be upheld.

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that the assessee is having opening cash in hand as on 09.11.2016, just before the date of demonetization, which is in excess of cash deposit of Rs. 27 lakhs into bank account during demonetization period. In fact, the Assessing Officer never disputed fact that the appellant is having opening cash in hand of Rs. 29,40,897/-, but rejected explanation of the assessee on a flimsy ground that, the assessee could not explain reasons for periodical withdrawals from bank account. In our considered view, the Assessing Officer cannot question the wisdom of the businessmen for withdrawing cash from bank account. Secondly, as per cash book submitted by the assessee, the assessee has explained reasons for cash

withdrawal and as per explanation of the assessee, the assessee has withdrawn cash for various expenses. This fact is strengthened by cash book submitted by the assessee. Therefore, we are of the considered view that when the assessee is able to explain source for cash deposits with the bank account during demonetization period out of opening cash balance as on 09.11.2016, the Assessing Officer ought to have accepted explanation furnished by the assessee. The Id. CIT(A), without appreciating relevant facts simply sustained additions made by the Assessing Officer. Thus, we set aside the order of the Id. CIT(A) and direct the Assessing Officer to delete additions of Rs. 22 lakhs made u/s. 68 of the Income-tax Act, 1961, towards cash deposits during demonetization period.

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

Order pronounced in the open court on 21<sup>st</sup> February, 2024 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(मंजूनाथा. जी)**  
**(MANJUNATHA. G)**  
लेखासदस्य/Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated, the 21<sup>st</sup> February, 2024  
**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF