

आयकरअपीलीयअधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री मंजुनाथा. जी, लेखा सदस्यएवं श्रीमनोमोहनदास, न्यायिकसदस्यके समक्ष
**BEFORE SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER
AND SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER**

आयकरअपीलसं./ITA No.: 496/Chny/2023

निर्धारणवर्ष / Assessment Year: 2017-18

Sadasivam Lenin,
85/3, Kabir Street,
Sivaganga Road,
Mangiri, Madurai – 625 020.

Income Tax Officer,
v. Non Corp Ward -2(3),
Madurai.

[PAN: AEBPL-9414-N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Shri. N. Arjun Raj, CA

प्रत्यर्थीकीओरसे/Respondent by

: Shri. P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 15.02.2024

घोषणा की तारीख/Date of Pronouncement

: 28.02.2024

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)-16, Chennai, dated 20.02.2023 and pertains to assessment year 2017-18.

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

"1. The order of the CIT(A) - 16, Chennai dated 20.02.2023 vide DIN & Order No. ITBA/APL/M/250/2022-23/1049966755(1) for the above mentioned Assessment Year is contrary to law, fact and in circumstances of the case.

2. The CIT(A) - 16 erred in confirming the addition of Rs. 44,81,500/being the cash deposits in SBN s during demonetization period as unexplained money within the scope of Section 69A of the Act without assigning proper reasons and justification.

3. The CIT(A) - 16 failed to appreciate that the provisions of section 69A of the Act had no application to the facts of the case and ought to have appreciated that the rejection of explanation for the source of cash deposits on mere suspicion and surmises was wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law.

4. The CIT(A) - 16 failed to appreciate that having not examined independently, the evidences filed in support of the plea on the non applicability of section 69A of the Act to the factual matrix of the case, the findings recorded in para 5 of the impugned order as a consequence should be reckoned as bad in law.

5. The CIT(A) - 16 failed to appreciate that the written submissions filed in support of the stand of the Appellant was not considered in proper perspective and ought to have appreciated that the order of assessment was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.

6. The CIT(A) - 16 failed to appreciate that the provisions governing the conduct of the first appeal proceedings were not followed and ought to have appreciated that non granting of personal hearing would vitiate the impugned order.

7. The Appellant craves leave to file additional grounds/arguments at the time of hearing."

3. The brief facts of the case are that, the assessee is an individual and proprietor of M/s. Yes Medical Systems, which is engaged in the business of trading of medical equipments.

The assessee has filed his return of income for the assessment year 2017-18 on 17.10.2017, by declaring taxable income of Rs. 5,01,430/-. The case was selected for scrutiny under CASS to verify cash deposits during demonetization period. During the course of assessment proceedings, the Assessing Officer noticed that, assessee has made cash deposits to KarurVysya Bank, HDFC Bank and State Bank of India during demonetization period and thus, called upon the assessee to file necessary evidences and also explain source for cash deposits. In response, the assessee submitted that, he is into the business of trading of medical equipments and source for cash deposits during demonetization period in specified bank notes is out of collections from debtors and sales pertains to said debtors are already accounted in the books of accounts before demonetization period. In support of his claim, the assessee has filed the list of debtors from whom cash has been collected against sales. The Assessing Officer, however was not convinced with the explanation furnished by the assessee and according to the Assessing Officer, although the assessee has filed list of debtors from whom cash was collected, but failed to furnish day-book, parties ledger accountetc and therefore, rejected arguments of the assessee and made

addition of Rs. 44,81,500/- u/s. 69A of the Income-tax Act, 1961 (hereinafter referred to as "the Act") as unexplained money towards cash deposits into various bank accounts during demonetization period.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee has filed details of cash receipts from sundry debtors and also cash book to explain source for cash deposits. The Id. CIT(A), after considering relevant submissions of the assessee and also taken note of relevant facts opined that, although the appellant has filed cash book and other details to prove source for cash deposits, but failed to furnish list of sundry debtors with opening and closing balance along with financial statements for the financial years 2014-15, 2015-16 & 2016-17. Therefore, rejected arguments of the assessee and upheld additions made by the Assessing Officer. Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

5. The Ld. Counsel for the assessee, Shri. N. Arjun Raj, CA, submitted that the Id. CIT(A) is erred in confirming additions

made towards cash deposits during demonetization period, even though the appellant has filed necessary details including the cash book, list of debtors from whom cash was received and also necessary sales bills to explain source for cash deposits. The Ld. Counsel for the assessee, took us to paper book filed by the assessee and argued that, the assessee has filed ledger extract of parties along with sales bills to prove corresponding cash receipts against sales. The assessee has filed all evidences, but the Id. CIT(A) ignored evidences filed by the assessee and sustained additions towards cash deposits during demonetization period.

6. The Id. DR, Shri. P. Sajit Kumar, JCIT, supporting the order of the Id. CIT(A) submitted that, there is no dispute with regard to sales declared by the assessee. The assessee had also filed list of debtors from whom cash was collected, but fact remains that there is no evidence with the assessee to prove that cash received from sundry debtors is in specified bank notes. Therefore, the Assessing Officer has rightly made additions towards cash deposits during demonetization period and their order should be upheld.

7. 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 quantum of cash deposits into bank account during demonetization period. The assessee has explained source for cash deposits out of sales made immediately before the date of demonetization. The assessee had also furnished a chart explaining name and details of the persons from whom cash was collected against sales. The Assessing Officer, never disputed the fact that the assessee has furnished list of debtors from whom cash was collected. The only observation of the Assessing Officer was that, the appellant could not file day-book, parties account etc. Before the Id. CIT(A), the assessee has filed cash book, ledger extract and argued that source for cash deposits is out of sales made before the date of demonetization period. The Id. CIT(A), accepted the fact that the assessee has filed cash book and list of debtors from whom cash was collected, but rejected arguments of the assessee, on the ground that the assessee did not furnish list of debtors with opening and closing balance for three financial years. We find that, the Assessing Officer has made additions towards cash deposits on the ground that no cash book was furnished even though the assessee has

furnished list of debtors. The Id. CIT(A), sustained additions on the ground that, although the assessee has furnished cash book, ledger extract, but not filed list of debtors with opening and closing balance for last three financial years. In our considered view, both authorities have given exactly opposite reasons for making additions and sustaining additions towards cash deposits. On the other hand, the appellant has filed list of debtors from whom cash was collected and also corresponding sales bills and also proved sales was declared before the date of demonetization. The appellant has also filed ledger extract of the parties along with cash book and from the details furnished by the assessee, there is no dispute with regard to the fact that, the assessee has received cash against sales. From the above, it is undisputedly clear that the appellant has filed all possible evidences to prove source for cash deposits during demonetization period. In our considered view, when the appellant has furnished necessary details to prove source for cash deposits, the Assessing Officer and Id. CIT(A) ought to have accepted explanation furnished by the assessee and thus, we are of the considered view that the Assessing Officer and Id. CIT(A) are erred in making additions towards cash deposits u/s. 69A of the Act. Thus, we set aside

the order of the Id. CIT(A) and direct the Assessing Officer to delete additions made towards cash deposits into bank account during demonetization period.

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

Order pronounced in the court on 28THFebruary, 2024 at Chennai.

Sd/-

(मनोमोहनदास)

(MANOMOHAN DAS)

न्यायिकसदस्य/Judicial Member

Sd/-

(मंजुनाथा. जी)

(MANJUNATHA. G)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 28thFebruary, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF