

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
 HYDERABAD BENCHES “B” , HYDERABAD**

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
 AND
 SHRI LALIET KUMAR, JUDICIAL MEMBER**

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| ITA No.59/Hyd/2024 | | |
| Assessment Year: 2017-18 | | |
| Prisha Pearl (INDIA) Private Limited, Hyderabad. PAN : AAFCP7273A | Vs. | The Income Tax Officer, Ward – 16(2), Hyderabad. |
| (Appellant) | | (Respondent) |
| Assessee by: | | Shri K.A. Sai Prasad, C.A. |
| Revenue by: | | Ms. Sheetal Sarin, Sr. AR. |
| Date of hearing: | | 20.03.2024 |
| Date of pronouncement: | | 22.03.2024 |

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”) for the A.Y 2017-18 on the following grounds :

2. The grounds raised by the assessee reads as under :

“1. The order of the learned Commissioner of Income Tax (A) is not correct either on facts or in law and in both.

2. In the facts and circumstances of the case, learned Commissioner of Income Tax(A) is not justified in confirming the Order of Assessing Officer dated 24.12.2019, treating the entire credits of Rs.69,44,634/- in Karnataka Bank Account as unexplained under Section 69A of IT Act and taxing as per provisions of Section 115BBE.

3. The learned First Appellate Authority is not justified in sustaining the addition of Rs 69,44,634/- made U/s.69A without appreciating the fact that all the deposits in the bank account are made out of sale proceeds already offered to tax and that the addition results in taxing the same income twice.

4. The learned First Appellate Authority is not justified in ignoring the evidences filed in support of the claim of the appellant that there is sufficient cash balance available for making deposits in the bank account and the order passed is without consideration of cash book filed before it.

5. The order of the learned Commissioner of Income Tax (A) is factually incorrect in stating that no evidences were filed and the Order was passed without proper appreciation of facts and submissions filed before it and is against the principles of natural justice.”

3. Facts of the case, in brief, are that the assessee is a company carrying on business in purchase and sale of Pearls. The department noticed substantial cash deposits in the case of the assessee during the period of demonetization and hence, issued notice u/s 142(1) of the Act for filing the return of income for A.Y. 2017-18. However, the assessee did not respond for the same. Subsequently, a show cause notice dt.03.09.2019 was issued to the assessee. For verification purposes, notice u/s.133(6) of the Act has been issued to the Karnataka Bank Limited, Nampally requesting the bank account statement of the assessee. On perusal of the bank account statement, Assessing Officer had noticed that assessee had deposited cash deposits/credits aggregating to Rs. 69,44,634/- during the F.Y.2016-17. Assessing Officer further observed that the assessee has

repeatedly failed to comply with the terms of notices issued and was not willing to cooperate. As the assessee was not able to substantially prove the cash deposits before the Assessing Officer, Assessing Officer was left with no other alternative but to complete the assessment and hence, he completed the assessment u/s 144 of the I.T Act by treating the entire cash deposits of Rs.69,44,634/- as unexplained money u/s 69A of the Income-Tax Act, 1961.

4. Feeling aggrieved by the order passed by the assessing officer, assessee filed appeal before the Ld. CIT(A), who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. Before us, ld. AR has submitted that the assessee has filed the documents before the Assessing Officer and the ld.CIT(A), wherein the assessee has enclosed the copy of the return of income. In that return, the total turnover of the assessee was shown as Rs.75,86,113.79 (page 3 of the paper book). On the basis of the said turnover, the assessee has paid due taxes. The turnover declared by the assessee with respect to gold and pearl sales has been duly accounted for in the profit and loss account and in the return filed thereof. It is the contention of the assessee that while passing the assessment order / appellate order by the Assessing Officer and ld.CIT(A), both authorities have ignored the gross amount deposited in the bank account which was part of the turnover. For that purpose, he has drawn our attention to the order of AO wherein the Assessing Officer has mentioned the bank transactions made by the assessee in a tabulation form vide pages 3 to 9 of his order.

| NAME OF THE BANK | ACCOUNT NO | DATE | REMARKS | AMOUNT |
|---|-------------------|-------------|----------------|---------------|
| THE KARNATAKA BANK LIMITED, NAMPALLY | 3202000110021300 | 06.04.2016 | BY CASH | 75823 |
| -do- | -do- | 12.04.2016 | BY CASH | 200000 |
| -do- | -do- | 16.04.2016 | BY CASH | 169000 |
| -do- | -do- | 22.04.2016 | BY CASH | 20000 |
| -do- | -do- | 25.04.2016 | BY CASH | 20000 |
| -do- | -do- | 03.05.2016 | BY CASH | 0 |
| -do- | -do- | 12.05.2016 | AMSHA | 20000 |
| -do- | -do- | 19.05.2019 | BY CASH | 0 |
| -do- | -do- | 20.05.2016 | BY CASH | 140000 |
| -do- | -do- | 21.05.2016 | BY CASH | 5000 |
| -do- | -do- | 25.05.2016 | BY CASH | 30000 |
| -do- | -do- | 06.06.2016 | BY CASH | 10500 |
| -do- | -do- | 09.06.2016 | BY CASH | 14970 |
| -do- | -do- | 23.06.2016 | BY CASH | 114760 |
| -do- | -do- | 23.06.2016 | BY CASH | 204000 |
| -do- | -do- | 02.07.2016 | BY CASH | 90000 |

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|------|------|------------|---------|--------|
| -do- | -do- | 04.07.2016 | BY CASH | 200000 |
| -do- | -do- | 06.07.2016 | BY CASH | 14400 |
| -do- | -do- | 11.07.2016 | BY CASH | 50160 |
| -do- | -do- | 13.07.2016 | BY CASH | 153656 |
| -do- | -do- | 15.07.2016 | BY CASH | 70000 |
| -do- | -do- | 22.07.2016 | BY CASH | 300000 |
| -do- | -do- | 22.07.2016 | BY CASH | 100320 |
| -do- | -do- | 28.07.2016 | BY CASH | 10000 |
| -do- | -do- | 28.07.2016 | BY CASH | 14000 |
| -do- | -do- | 05.08.2016 | RTGS | 216875 |
| -do- | -do- | 16.08.2016 | NEFT | 200000 |
| -do- | -do- | 18.08.2016 | BY CASH | 52000 |
| -do- | -do- | 18.08.2016 | BY CASH | 12000 |
| -do- | -do- | 18.08.2016 | BY CASH | 50000 |
| -do- | -do- | 20.08.2016 | BY CASH | 55000 |
| -do- | -do- | 23.08.2016 | BY CASH | 200000 |
| -do- | -do- | 24.08.2016 | BY CASH | 64976 |
| -do- | -do- | 29.08.2016 | BY CASH | 14000 |

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|------|------|------------|--------|--------|
| -do- | -do- | 30.08.2016 | BYCASH | 200000 |
| -do- | -do- | 30.08.2016 | BYCASH | 140220 |
| -do- | -do- | 19.09.2016 | BYCASH | 100000 |
| -do- | -do- | 20.09.2016 | BYCASH | 80000 |
| -do- | -do- | 26.09.2016 | BYCASH | 14000 |
| -do- | -do- | 18.10.2016 | BYCASH | 163000 |
| -do- | -do- | 18.10.2016 | BYCASH | 5529 |
| -do- | -do- | 28.10.2016 | BYCASH | 48000 |
| -do- | -do- | 08.11.2016 | BYCASH | 14000 |
| -do- | -do- | 11.11.2016 | BYCASH | 73804 |
| -do- | -do- | 11.11.2016 | BYCASH | 60000 |
| -do- | -do- | 11.11.2016 | BYCASH | 3214 |
| -do- | -do- | 11.11.2016 | BYCASH | 142000 |
| -do- | -do- | 12.11.2016 | BYCASH | 10800 |
| -do- | -do- | 12.11.2016 | BYCASH | 200000 |
| -do- | -do- | 15.11.2016 | BYCASH | 160000 |
| -do- | -do- | 18.11.2016 | BYCASH | 100000 |
| -do- | -do- | 18.11.2016 | BYCASH | 25000 |

| | | | | |
|------|------|------------|------------|--------|
| -do- | -do- | 18.11.2016 | BY CASH | 197150 |
| -do- | -do- | 19.11.2016 | BY CASH | 65000 |
| -do- | -do- | 19.11.2016 | BY CASH | 5500 |
| -do- | -do- | 21.11.2016 | BY CASH | 48107 |
| -do- | -do- | 22.11.2016 | BY CASH | 12500 |
| -do- | -do- | 23.11.2016 | BY CASH | 53556 |
| -do- | -do- | 23.11.2016 | BY CASH | 2245 |
| -do- | -do- | 25.11.2016 | BY CASH | 200000 |
| -do- | -do- | 28.11.2016 | BY CASH | 4000 |
| -do- | -do- | 28.11.2016 | BY CASH | 65000 |
| -do- | -do- | 28.11.2016 | NEFT | 65000 |
| -do- | -do- | 06.12.2016 | BY CASH | 272886 |
| -do- | -do- | 09.12.2016 | BY CASH | 58000 |
| -do- | -do- | 13.11.2016 | BY CASH | 140220 |
| -do- | -do- | 19.12.2016 | BY CASH | 50000 |
| -do- | -do- | 22.12.2016 | BY CASH | 25000 |
| -do- | -do- | 23.11.2016 | BY CASH | 56000 |
| -do- | -do- | 27.12.2016 | BY CLG/SBI | 49000 |

| | | | | |
|------|------|------------|--------------|----------------|
| -do- | -do- | 29.12.2016 | BY CLG/SBI | 50000 |
| -do- | -do- | 16.01.2017 | BY CASH | 25000 |
| -do- | -do- | 21.01.2017 | BY CASH | 43000 |
| -do- | -do- | 25.01.2017 | BY CASH | 56000 |
| -do- | -do- | 31.01.2017 | BY CASH | 14000 |
| -do- | -do- | 13.02.2017 | BY CASH | 5000 |
| -do- | -do- | 18.02.2017 | BY CASH | 20000 |
| -do- | -do- | 21.02.2017 | BY CASH | 62000 |
| -do- | -do- | 21.02.2017 | BY CASH | 70000 |
| -do- | -do- | 21.02.2017 | NEFT | 20000 |
| -do- | -do- | 22.02.2017 | BY CASH | 95000 |
| -do- | -do- | 16.03.2017 | BY CASH | 81000 |
| -do- | -do- | 21.03.2017 | NEFT | 8385 |
| -do- | -do- | 21.03.2017 | BY CASH | 99000 |
| -do- | -do- | 22.03.2017 | BY CASH | 17000 |
| -do- | -do- | 24.03.2017 | BY CASH | 90000 |
| | | | TOTAL | 6944634 |

6.1. Additionally, it was also mentioned in the order of Id.CIT(A) that the total cash deposits made by the assessee for the year under consideration was bifurcated into three heads, namely before the announcement of demonetization, cash deposits made during the demonetization, and after the first of January 2017. The assessee also declared an amount of Rs.2,00,000/- towards Pradhan Mantri Garib Kalyan Yojana (PMGKY) during the demonetization period. Furthermore, the Id.AR submitted that the assessee had a cash balance of Rs.14,83,088/- on 01.04.2016 which was available with the assessee and was subsequently deposited by the assessee during the demonetization period. The assessee submitted that the addition made by the Assessing Officer and confirmed by the Id.CIT(A) is required to be deleted, as the assessee was able to explain the same.

7. Per contra, Id. DR relied upon the orders of Assessing Officer and Id.CIT(A).

8. We have heard the rival arguments and perused the material on record. Admittedly, the assessment was exparte before the Assessing Officer as the assessee has not filed any documents. It is the case of the assessee that the return of income was filed with the Assessing Officer, showing a turnover of Rs.75,86,113.79 with an opening cash balance of Rs.14,83,088/- with the assessee. However, the Assessing Officer made an addition including the amount which was part of the total turnover declared by the assessee in the return

of income. Contrary to this, the AO made the addition of entire cash deposits of Rs.69,44,634/-.

8.1 If we look into the submissions made by the assessee before the Id.CIT(A)/NFAC, it is clear that out of the total cash deposits made during the period was Rs.69,44,634/-. The Id.CIT(A) at page 3 has given the table of cash deposits / amount received from RTGS in the following manner :

| Cash deposits during the period | Tota cash deposit | Deposits by NEFT/RTGS |
|---------------------------------|-------------------|-----------------------|
| 02.04.2016 to 07.11.2016 | 36,00,244 | 4,31,023 |
| 08.11.2016 to 31.12.2016 | 20,43,872 | 1,64,000 |
| 01.01.2017 to 31.03.2017 | 6,77,000 | 28,385 |
| Total | 63,21,226 | 6,23,408 |

8.2. The Assessing Officer though had made the addition of Rs.69,44,634/- however, he failed to take note of the amount received by the assessee through the banking channels as mentioned in the table reproduced above. The above amount received through banking channels is required to be reduced from the addition made by the Assessing Officer. Further, the amount of Rs.36,00,244/- was deposited in cash in the bank account and already taken into account while filing the return of income is also required to be deducted. Further, the amount of Rs.14,30,777/- being the opening cash balance along with Rs.2,00,000/- which was declared by the

assessee towards Pradhan Mantri Garib Kalyan Yojana are also required to be reduced from the addition made by the Assessing Officer and confirmed by the Id.CIT(A). Thus, the remaining amount which remained unexplained would be (Rs.69,44,634/- - (Rs.6,23,408/- - Rs.36,00,244 - Rs.14,30,777/- - Rs.2,00,000/-) = Rs.69,44,634 - Rs.58,54,429/- = Rs.10,90,205/-).

8.3. Therefore, in our view, the assessee is unable to explain the sources of Rs.10,90,205/- deposited in his bank account. Though it was the contention of the assessee that this amount was also factored in while filing the return of income whereby he declared gross turnover of Rs.7587133/-, however, we do not agree with the contention of the assessee as no evidence has been brought to our notice to this effect. According to us, the said amount of Rs.10,90,205/- is required to be confirmed in the hands of the assessee and the remaining amount is required to be deleted. Accordingly, the appeal of the assessee is partly allowed.

9. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 22nd March, 2024.

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| Sd/- (R.K. PANDA) VICE PRESIDENT | Sd/- (LALIET KUMAR) JUDICIAL MEMBER |
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Hyderabad, dated 22nd March, 2024.

TYNN/sps

Copy to:

| S.No | Addresses |
|------|---|
| 1 | Prisha Pearl (INDIA) Private Limited, Hyderabad, C/o. Katrapati and Associates, 1-1-298/2/B/3, Sowbhagya Avenue Apartments, 1 st Floor, Street No.1, Ashok Nagar, Hyderabad. |
| 2 | The Income Tax Officer, Ward – 16(2), Hyderabad. |
| 3 | Prl.CIT, Hyderabad. |
| 4 | DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order