

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC' : NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER**

**ITA No.3680/DEL/2023  
(Assessment Year: 2017-18)**

Kandera Brick Field,  
C/o Shiam Lal Jain, Advocate,  
214/3, Police Street Sadar,  
Meeruti – 250 001 (Uttar Pradesh).

vs. ITO, Ward 1 (5),  
Meerut.

**(PAN : AAPFK7808K)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Bharat Jain, Advocate  
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 02.04.2024  
Date of Order : 08.04.2024

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal by the assessee is directed against the orders of the Id. CIT (Appeals)/National Faceless Appeal Centre dated 21.11.2023 for the assessment year 2017-18.

2. Assessee has taken concise Grounds of appeal which read as under :-

“(D) On a similar issue, the Hon’ble Madhya Pradesh High Court in the case of CIT (A) vs. Metachem Industries (2000\_ 245 ITR 160 has held as under :-

Once it is established that the amount has been invested by a particular person, be he partner or an individual, then the responsibility of the assessee is over. Whether that person is an income-tax payer or not and where he had brought this money from is not the responsibility of the first. The moment of the firm gives a satisfactory explanation and produces the person who has deposited

the amount, then the burden of the treated to be the income of the firm for the purposes of Income-tax.”

3. In this case, the assessee is a partnership firm. Assessing Officer noted that firm has made huge deposits in the bank account during the demonetisation period. Assessee had not filed any return of income. No compliance was made before the AO. AO accordingly made the addition of Rs.24,00,000/- on account of cash deposit during the demonetisation period.

4. Upon assessee's appeal, Id. CIT (A) noted the assessee's submission that cash deposits represented additional capital contributed by the partners in the form of cash as under :-

(a)	Shri Chander Pal Singh	2,50,000
(b)	Shri Vikram Singh	2,50,000
(c)	Shri Om Pal Singh	2,50,000
(d)	Shri Dharam Pal Singh	16,50,000

5. Ld. CIT (A) granted part relief and confirmed part of the addition by holding as under :-

“In this context, in case of Shri Chandra Pal Singh, Shri Vikram Singh and Shri Ompal Singh, withdrawals from partnership from M/s Arya Brick Field and agricultural income is stated to be the source of cash. The ledger A/cs from the other firm and the agricultural land holdings documents are provided. The partners have agreed and their creditworthiness is found acceptable. Therefore, the AO is directed to delete these amounts totalling Rs.7,50,000/-.

4.3.2. In respect of Shri Dharam Pal Singh, the cash is supposed to have been generated by said partner from sale of buffalos and from leasing out 39 bighas of land for 6 years to another person. However, apart from the letters of Shri Dharam Pal Singh and lease deed on plain paper, no other proof is given. With agricultural income not shown in the ITR, the existence of agricultural land is to be proved and that is not given. Further, the sale proceeds from

buffaloes is also not evidenced. In view of the same, the partner's introduction of capital is not proved.”

Accordingly, Id. CIT (A) granted relief of Rs.7,50,000/- but confirmed the addition of cash deposits of Rs.16,50,000/- made by Dharam Pal Singh.

6. Against this order, assessee is in appeal before the ITAT. I have heard both the parties and perused the records.

7. Ld. Counsel for the assessee submitted that assessee has given complete details of the source of Dharam Pal Singh. However, there was no enquiry made by the Revenue Department and the addition was made by dismissing the submission without any enquiry. He submitted that the issue may be remitted to the file of AO to make necessary enquiry about the veracity of assessee's submission that the contribution was made by Dharam Pal Singh.

8. Ld. DR for the Revenue did not have any objection to this proposition.

9. Accordingly, in the interest of justice, I remit the issue to the file of AO. AO shall consider the issue afresh and examine the evidence given about the veracity of contribution made by Dharam Pal Singh. Needless to add, assessee should be provided an opportunity of being heard.

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

**Order pronounced in the open court on this 8<sup>th</sup> day of April, 2024.**

**Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 8<sup>th</sup> day of April, 2024  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**