

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 3170/DEL/2023
Assessment Year: 2017-18**

Dharampal, 5614/76, Regharpura Karol Bagh, New Delhi-110005.	<u>Vs</u>	Income Tax Officer, Ward-51(3), New Delhi.
PAN- AAUPP0924G		
APPELLANT		RESPONDENT
Assessee represented by	Shri Gautam Jain, Adv.; Shri Lalit Moha, CA; & Shri Parth Singhal, Adv.	
Department represented by	Shri Vivek Kumar Upadhyay, Sr. DR	
Date of hearing	13.02.2024	
Date of pronouncement		

ORDER

PER M. BALAGANESH, AM:

This appeal, by the assessee, is directed against the order of National Faceless Appeal Centre (NFAC), dated 26.10.2023, arising out of assessment order dated 29.12.2019, passed by the Assessing Officer u/s 143(3) of the Income-tax Act, 1961, pertaining to the assessment year 2017-18.

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the addition made on account of cash deposits made during the demonetization period in the sum of Rs 57,02,060/- in the facts and circumstances of the case.

3. We have heard the rival submissions and perused the materials available on record. The assessee is a proprietor of M/s Dee Pee Leather

Store engaged in the business of trading of hides and skins, PU Coated fabric mainly and partly Adhesive / Elastics/ PVC Strips/ Soles for ladies footwear. The assessee had shown business income of Rs 13,42,171/- and house property income of Rs 5,33,400/- in the return of income and after reducing deductions under Chapter VIA of the Act in the sum of Rs 1,40,875/-, the net taxable income of Rs 17,34,696/- was declared by the assessee in the return of income. The assessee had disclosed sales of Rs 6,46,73,279/-. The break up of the total sales (credit and cash sales) month wise clearly bifurcating the sales made prior to demonetization period and during the demonetization period and thereafter are tabulated hereunder:-

<i>Sr. No.</i>	<i>Month wise</i>	<i>Credit sales</i>	<i>Cash sales</i>	<i>Total (Rs.)</i>
<i>i)</i>	<i>April,2016</i>	<i>54,98,910</i>	<i>2,09,895</i>	<i>57,08,805</i>
<i>ii)</i>	<i>May'2016</i>	<i>17,85,515</i>	<i>1,71,000</i>	<i>19,56,515</i>
<i>iii)</i>	<i>June'2016</i>	<i>11,14,775</i>	<i>3,04,520</i>	<i>14,19,295</i>
<i>iv)</i>	<i>July'2016</i>	<i>57,63,788</i>	<i>1,98,000</i>	<i>59,61,788</i>
<i>v)</i>	<i>August'2016</i>	<i>8,24,268</i>	<i>3,67,710</i>	<i>11,91,978</i>
<i>vi)</i>	<i>September'2016</i>	<i>16,67,274</i>	<i>14,92,900</i>	<i>31,60,174</i>
<i>vii)</i>	<i>October'2016</i>	<i>41,22,548</i>	<i>35,93,582</i>	<i>77,15,930</i>
<i>viii)</i>	<i>Nov' 16 upto 8th Nov. 16</i>	<i>1,34,897</i>	<i>1,07,77,684</i>	<i>1,09,12,581</i>
<i>ix)</i>	<i>9.11.2016 to 30.11.2016</i>	<i>34,31,460</i>	<i>20,000</i>	<i>34,51,460</i>
<i>x)</i>	<i>December'2016</i>	<i>23,82,420</i>	<i>-</i>	<i>23,82,420</i>
<i>xi)</i>	<i>January, 2017</i>	<i>87,28,642</i>	<i>43,887</i>	<i>87,72,529</i>
<i>xii)</i>	<i>February, 2017</i>	<i>1,00,06,612</i>	<i>-</i>	<i>1,00,06,612</i>
<i>xiii)</i>	<i>March, 2017</i>	<i>19,94,539</i>	<i>38,650</i>	<i>20,33,189</i>
	<i>Total</i>	<i>4,74,55,650</i>	<i>1,72,17,628</i>	<i>6,46,73,279</i>

4. It was the plea of the assessee that the cash deposits made during the demonetization period in the sum of Rs 72,74,000/- were out of cash sales made by the assessee (which is already included in the aforesaid total sales of Rs 6,46,73,279/-) and available cash sales as per the cash book maintained by the assessee. The assessee furnished the break up of cash sales made during the year under consideration month wise with corresponding figures of

immediately preceding year also before the Id. AO. It was submitted that to the extent of cash sales made by the assessee, there is corresponding reduction in stocks maintained by the assessee and that the sales are duly supported by sales invoices. The assessee further furnished the following documents before the Id. AO:-

- a) Brief note regarding cash sales during the period 27.10.2016 to 7.11.2016 along with letter from Jammu & Kashmir Bank Ltd which are enclosed in pages 85 and 86 of the Paper Book
- b) Monthly details of purchase and sales for the period 1.4.2015 to 31.3.2016 ; 1.4.2016 to 31.3.2017 and 1.4.2017 to 31.3.2018 which are enclosed in Pages 97 to 99 of the Paper Book
- c) Details of DVAT sale summary for 2015-16 and 2016-17 along with DVAT returns which are enclosed in Pages 111 to 120 of the Paper Book
- d) Details of Purchase Import (Party wise with complete address) enclosed in Page 102 of the Paper Book
- e) Copy of Stock Summary item wise enclosed in Pages 103 to 107 of the Paper Book
- f) Monthly summary of cash for the period 1.4.2016 to 31.3.2017 enclosed in Page 100 of the Paper Book
- g) Copy of cash book for the period 1.4.2016 to 31.3.2017 enclosed in Pages 151 to 233 of the Paper Book
- h) Copy of bank statements of Jammu & Kashmir Bank and Kotak Mahindra Bank together with the bank book of the assessee which are enclosed in Pages 234 to 315 of the Paper Book
- i) Details of sales party wise with complete address enclosed in Page 101 of the Paper Book
- j) Copy of invoices from M/s Sea Impex Logistics P Ltd enclosed in Pages 87 to 94 of the Paper Book
- k) Copy of ledger account of customs duty deposited enclosed in Page 96 of the Paper Book
- l) Copy of Form DVAT 24, notice of default assessment of tax and interest of CST Act (VAT-Assessment Order) enclosed in Pages 316 to 317 of the Paper Book

m) Copy of following ledger accounts in the books of the assessee company :-

- S K Trading enclosed in Pages 125 to 126 of the Paper Book
- Deepali Enterprises enclosed in Pages 127 to 128 of the Paper Book
- Renu Footwear enclosed in Pages 131 to 132 of the Paper Book
- Topper International Group Co. Ltd enclosed in Page 133 of the Paper Book
- Haochauan Enterprises Co. Ltd enclosed in Page 134 of the Paper Book
- Haining Haixiang Shoe Material Co. Ltd enclosed in Pages 135 to 136 Of the Paper Book
- LishuHaihe International Enterprises Co. Ltd enclosed in Page 137 of The Paper Book

5. We find that the assessee was practically forced to effect cash sales during the fag end of October and first week of November 2016 due to pressure applied by the bank to reduce the working capital limit from Rs 150 lacs to Rs 54 lacs which is evident from letter issued by J&K Bank reducing the working capital limit of the assessee. This fact was also explained by the assessee before the lower authorities that J&K bank forced the assessee to deposit the outstanding amount and bring the balance within the sanctioned working capital limits, failing which, the collateral security of the assessee would be put to auction. But at the same time, the last week of October and first week of November 2016 being festival season and that is the time at which the sales of the assessee would be picking very well. Hence the assessee was forced to effect cash sales by offering more cash discount instead of effecting credit sales which would have fetched higher margins to the assessee. Hence we find that the assessee had given a plausible explanation for effecting cash sales during the period 27.10.2016 to

7.11.2016, which fact is also supported by the bank correspondences. It is pertinent to note that there is absolutely no allegation leveled on the assessee that the sales made by the assessee were not reflected in the books of accounts of the assessee. The assessee had duly furnished the complete books of accounts including cash book, ledger, stock registers before the Id. AO which had not been rejected by the Id. AO. Both cash and credit sales made by the assessee are duly subjected to VAT and assessee had duly suffered sales tax and had filed VAT returns accordingly. There has been no revision in VAT returns as erroneously mentioned by the Id. AO, which fact is evident from the VAT returns enclosed in the Paper Book. Item wise stock statement had been duly furnished by the assessee for the whole financial year 2016-17 which is enclosed in Pages 103 to 106 of the Paper Book and hence the observation made by the Id AO in this regard that the same was not furnished is factually incorrect. The purchases made by the assessee in order to keep sufficient stock of goods in hand is not doubted by the revenue. The goods purchased had been duly reflected as 'goods inward' in the stock register. The goods sold by the assessee (both cash and credit) had been duly reflected as 'goods outward' in the stock register with quantity and value. We find that the assessee had sufficient cash balance of Rs 80,92,644.75 as on 8.11.2016 as is evident from the Cash Book which has not been rejected by the Id. AO. Hence out of this cash balance, the assessee had deposited a sum of Rs 72,74,000/- during the period 9.11.2016 to 31.12.2016, on which no adverse inference could be drawn. There is no allegation leveled on the assessee that he had received cash in demonetized currency during the period 9.11.2016 to 31.12.2016. Hence the entire cash deposits made by the assessee stands clearly explained by proper sources drawn from the books of accounts itself.

6. Further we find that the basis of addition made by the Id. AO is very strange. The Id. AO had made an addition of Rs 57,02,060/- on account of

unexplained cash deposit u/s 68 of the Act by working out in the following manner:-

Sr. No.	Particulars	Amount (Rs.)
i)	Cash Sales during financial year 2015-16(A)	27,32,935
ii)	Average per day sales of FY 2015-16 $\{(A)/365\}$ (B)	7,487
iii)	Average per day sales for 01.10.2016 - 08.11.2016 $\{(B)*8 \text{ days}\}$ (C)	2,91,993
iv)	Total cash deposit during the year financial year 2016-17(D)	72,74,000
v)	Opening cash in hand as on 01.10.2016(E)	12,79,947
vi)	Allowable cash sales during 01.10.2016 - 08.11.2016 (as per (C))(F)	2,91,993
vii)	Balance unexplained cash deposit during demonetization period $\{(D)-E+(F)\}$	57,02,060

7. We are unable to comprehend ourselves to accept to the aforesaid basis of addition by the Id. AO. In our considered opinion, the basis of cash sales made in the earlier financial year cannot be adopted as a parameter for accepting the cash sales made during the year. If that be so, according to Id. AO, the total cash sales could be only Rs 27,32,755/- (7487 per day * 365 days), whereas the actual cash sales reported by the assessee during the year itself was Rs 1,72,17,628/- as is evident from the table reproduced supra. Hence we have no hesitation to hold that the basis of addition made by the Id. AO is wholly misconceived and devoid of merit.

8. In view of the aforesaid observations, we hold that the entire cash deposits made in the bank account by the assessee stood properly explained and hence there cannot be any addition thereon. Accordingly, the grounds raised by the assessee are allowed.

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

Order pronounced in open court on 01.05.2024.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: _01.05.2024.

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI