

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.445/Ind/2023
(Assessment Year: 2017-18)

Sai Atharva Tradelink India Pvt. Ltd. 301- Vijaystambh M.P. Nagar Zone-1 Bhopal	Vs.	ITO-5(1) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AAVCS6826J		
Assessee by	Shri A.K.Rinwa, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	22.04.2024	
Date of Pronouncement	07.05.2024	

O R D E R

Per Vijay Pal Rao, JM :

This appeal by assessee is directed against the order dated 15th September 2023 of the Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi for A.Y.2017-18. The assessee has raised following grounds of appeal:

"1 That the learned ITO be held to have erred in applying Section 69A to the addition of Rs.61,58,000/- made by him on account of cash deposited by the appellant in its Bank Account

with Bank of Baroda during the demonetization period in demonetized currency.

2. That the addition of Rs.61,58,000/- made by the learned ITO u/s 69A and confirmed by the learned CIT(A) at Rs.56,58,000/- be held to be bad and unjustified and be deleted.

3. That the learned CIT(A) be held to have grossly erred in considering the cash book of the appellant as fabricated. His observation of fabrication be held to be based on doubt and surmise.

4. In the alternative and without prejudice to the ground stated above, the addition of Rs.56,58,000/- confirmed by the learned CIT(A) be held to be high, unreasonable and unjustified and be suitably reduced.

5. The appellant craves leave to add, amend or alter any Ground of Appeal before or during the course of appellate proceedings.”

2. The solitary issue arises in this appeal of the assessee is whether in the facts and circumstances of the case the CIT(A) erred in confirming the addition made by the AO u/s 69A of the Act on account of cash deposit of Rs.61,58,000/- in the bank account of the assessee during the demonetization period. The assessee company is an authorized distributor/service provider for HTC Mobiles and blue Star RPD Division. The assessee filed return of income for the year under consideration on 24.10.2017 declaring total income at Rs.11,07,030/-. Case of the assessee was selected for complete scrutiny as per CASS for the reason of cash deposited during the demonetization period. The AO noted that during the year under consideration the assessee has made huge cash deposit

and particularly during the demonetization period. The AO accordingly issued notice u/s 142(1) and asked the assessee to provide total cash deposited by him during the financial year relevant to the assessment year under consideration as well as the cash deposited during the demonetization period along with source of such cash deposit, nature of transactions etc. with comparative details of preceding year and succeeding year. In response the assessee filed its reply as well as copied of ITR, audited financial statements, bank account statement, month-wise purchase and sales details etc. The assessee has explained that the cash deposited during the demonetization period of Rs.61,58,000/- is routine deposit out of the counter sales. The assessee also furnished the details of the cash sales of the preceding year as well as succeeding year. On consideration of the assessee's reply as well as the record the AO noted that the assessee has deposited huge cash during the demonetization period and that too in the Specific Bank Notes (SBN) of Rs.500 & Rs.1000 denomination. The assessee claimed that the deposit of Rs.61,58,000/- was cash balance available with the assessee in the specified bank note however, the AO did not accept this claim of the assessee for want of supporting evidences of having cash balance of such huge amount as on 08.11.2016. Accordingly the AO made an addition of the said amount u/s 69A of the Act. The assessee challenged the action of the AO before the CIT(A) and reiterated its contention that the cash balance is supported by the cash book of the assessee and source as cash sales during the preceding months of September and

October to the tune of Rs.20,02,785/- & Rs.38,12,672/- respectively. The CIT(A) did not accept this explanation of the assessee and observed that the assessee is having return of income of Rs.11 lakhs but keeping huge cash in hands of more than Rs.50 lakhs for month after month. Further the CIT(A) has observed that this claim of the assessee is not matched with its own opening and closing balance of cash in hands for relevant assessment year itself. Accordingly the CIT(A) has confirmed the addition to the extent of Rs.56,58,000/- after grant a relief of Rs.500,000/-. Aggrieved by the impugned order of the CIT(A) the assessee has filed present appeal.

3. Before the Tribunal Id. AR of the assessee has submitted that the availability of the cash as on 08.11.2016 is duly reflected in the cash book of the assessee. It is submitted that the assessee is authorized distributor/service provider for HTC mobile phones for Bhopal & upcountry and Bluestar RPD division for Bhopal & upcountry. The assessee is also distributor of mobile phone recharge vouchers for Reliance Telecom Ltd. The distribution network of the assessee is spread in Bhopal and 11 other districts surrounding Bhopal. The assessee is handling about 350 retailers in its area of operation. Regular books of accounts and vouchers are maintained by the assessee and the same are audited. During the course of assessment proceedings, the assessee filed all details, documents and submissions as required by the learned ITO. During demonetization period the assessee deposited cash totaling to Rs.61,58,000/- in its bank account number 18600500000075 with

Bank of Baroda on 10/11/2016 and 17/11/2016. The details of the cash deposits in specified bank notes was provided to the learned ITO and the said details were also available in the audit report of the assessee placed on record. The assessee had sufficient cash balance in its cash book before the beginning of the demonetization period and copy of the cash book of the assessee for the entire FY 2016-17 was also placed on record of the learned ITO. Copy of the cash book placed on record of the learned ITO contained details of daily cash sales made by the assessee and also the details of other cash transactions. The daily cash sales were duly supported by cash sale memos/ vouchers. The learned ITO has not found any mistake or defect in the cash book or cash sale vouchers maintained by the assessee. Copy of cash book of the assessee from 01/04/2016 to 31/03/2017 is also filed before tribunal. He has further submitted that the cash book shows a cash balance of Rs.63,44,937/- in hand on 08/11/2016, the date on which demonetization of Rs. 1000/- and Rs.500/- currency notes was announced. The cash sales of the appellant for 2 months before demonetization was as under:

Month	Cash sales (Rs.)
September 2016	20,02,785
October 2016	38,12,672
From 01.11.2016 to 05.11.2016	2,00,125

It is further submitted that the total turnover of the assessee for the relevant year was Rs.8,33,11,922/- and the turnover upto 31/10 / 2016 was Rs.6,45,45,978/-. It is submitted that the cash sales were only a very small percentage of the total turnover. Further, October is a festival month (the festival of Diwali was on 30/10 / 2016) in which there is a great upsurge in sales. The cash balance of the assessee is therefore, beyond any reasonable doubt and is fully supported by cash sale vouchers which were produced before the learned ITO. The learned ITO has made the addition without specifying any defect in the cash book or cash vouchers maintained which could have provided him with reasons to reject the authenticity or truthfulness of the cash book. Without making any effort at finding any defect in the cash book or cash balance of the assessee, the learned ITO has merely stated that "No specific explanation was offered in support of cash in hand on 8/11 /2016. The learned ITO has therefore made the addition of Rs.61,58,000/- on his own whims and surmises, which deserves to be deleted.

4. On the other hand, ld. DR has relied upon the orders of the authorities below and submitted that there is a huge variation in the cash sales and cash deposits in the months of September to November and the assessee has shown an extra-ordinary balance of cash in the months of November 2016 which is demonetization period and further the deposit made by the assessee of Rs.61,58,000/- is in Specified Bank Notes of Rs.500 & Rs.1000 therefore, the details provided by the assessee are not representing true fact and also contrary to the opening and closing balance

shown by the assessee in the cash book. He has further submitted that the assessee has filed only two pages of the audit report instead of the entire audit report which cannot be considered.

5. We have considered rival submissions as well as relevant material on record. There is no dispute that the assessee has deposited a sum of Rs.61,58,000/- specified bank notes Rs.500 & Rs.1000. As per the notes on account of the assessee has shown a cash balance in specified bank notes as on 08.11.2016 of Rs.61,51,000/-. This cash balance is claimed to have been out of the counter sale during the month of September & October of Rs.20,02,785/- & Rs.38,12,672/- and Rs.2,00,000/- from 01.11.2016 to 05.11.2016. Thus, the assessee has claimed more than Rs.50 lakhs of cash balance in specified bank notes representing cash sales for the months of September 2016, October 2016 and up to 5th November 2016. The assessee is not maintaining day to day stock register and also not furnished the month-wise compiled details of cash sales and cash expenditure rather the details of the entire cash book is filed including all the transactions of cash sales as well as other transactions. Thus, to determine the availability of the cash out of the cash sales the month-wise cash sales compiled data are required so that it could be analysed with the comparative sales of the preceding months and subsequent months. The assessee has given details of the month-wise deposit in bank account as under:

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ANNEXURE 5

SAI ATHARVA TRADELINK INDIA PVT LTD A.Y. 2017-18

Cash Deposit A.Y. 2017-18

ASSESSMENT YEAR	TOTAL CASH DEPOSIT	CASH DEPOSIT 9TH NOV TO 31 DEC 2016
2017-18	9920992.00	6158000.00

MONTH WISE CASH DEPOSIT DETAIL

S.NO.	MONTH	AMOUNT
1	Apr-16	0.00
2	May-16	470832.00
3	Jun-16	471850.00
4	Jul-16	214510.00
5	Aug-16	225500.00
6	Sep-16	831500.00
7	Oct-16	450800.00
8	Nov-16	6158000.00
9	Dec-16	0.00
10	Jan-17	888000.00
11	Feb-17	110000.00
12	Mar-17	100000.00
TOTAL		9920992.00

9-Nov-2016 to 31-Dec-2016

Date	Particulars	Credit
10-11-2016	BOB A/C 18600500000075	308000.00
17-11-2016	BOB A/C 18600500000075	550000.00
17-11-2016	BOB A/C 18600500000075	1300000.00
17-11-2016	BOB A/C 18600500000075	500000.00
17-11-2016	BOB A/C 18600500000075	500000.00
17-11-2016	BOB A/C 18600500000075	1200000.00
17-11-2016	BOB A/C 18600500000075	500000.00
17-11-2016	BOB A/C 18600500000075	1300000.00
		6158000.00

[Handwritten Signature]

5.1 Thus, it is clear that except in the months of November 2016 the average cash deposit in the bank is about Rs.5 lakhs whereas the deposit in the months of November 2016 is more than Rs.61,58,000/- and the entire deposit is made in specified bank notes of Rs.500 & Rs.1000. This itself reflects that the deposit made by the assessee in the month of November 2016 does not represent entire cash sales as it is highly impossible that the counter sales for the months of September and October 2016 up to 5th November 2016 is entirely received in currency note of Rs.500 & Rs.1000 notes. Therefore, the authorities below have sufficient reasons to disbelieve the explanation of the assessee about source of the said deposit of Rs.61,58,000/-. However, to the extent of the average cash sales per month cash deposit made in the bank account per month as well as expenses incurred in cash will give a better picture of availability of cash balance with the assessee from the sales of each month. Thus, all these details are required to be compiled in a proper manner and then to be analyzed to arrive at the correct figure of availability of cash with the assessee as on 08.11.2016.

5.2 Hence, in the facts and circumstances of the case as discussed above, we are of the considered view that the assessee is required to furnish better particulars and compiled details of month-wise cash sales for the financial year relevant to the assessment year under consideration along with month-wise cash deposit in the bank account and month-wise cash expenditure for the consideration and determination of the availability of the cash

in hands as on 08.11.2016. Accordingly we set aside this matter to the record of the AO for fresh adjudication after verification and examination as well as analyzing the better particulars and details to be produced by the assessee.

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

Order pronounced in the open court on 07.05.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, _ 07.05.2024

Patel/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*