

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “G” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No.3320/Del/2023  
[Assessment Year : 2017-18]**

Shashi Bala Maheshwari, C 47/X2, Near GTB Hospital, Dilshad Garden, Delhi-110095. <b>PAN-AIBPM9560E</b>	vs	ITO, Ward-59(2), Delhi-110002.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Lakshiya Budhiraja, CA	
<b>Respondent by</b>	Shri Gurpreet Singh, Sr. DR	
<b>Date of Hearing</b>	13.05.2024	
<b>Date of Pronouncement</b>	17.05.2024	

**ORDER**

**PER KUL BHARAT, JM**

The present appeal filed by the assessee is directed against the order passed by Ld. CIT(A), National Faceless Appeal Center (“NFAC”), Delhi dated 25.09.2023 for the assessment year 2017-18. The assessee has raised following grounds of appeal:-

- 1). *“That the order of learned lower authority is bad in law and against the facts and circumstances of the case and hence is unsustainable.*
- 2) *That Majority sales of appellant were retail sales to end consumers who generally made payment through cash mode and Cash generated from sales was deposited into bank account for the purpose of making payment to creditors from the same bank account.*
- 3) *That during the assessment year total turnover was of Rs.3,64,60,307/- and cash deposited was of Rs.61,12.700/- only, which is approximately only 17% of sales amount.*

- 4) *Cash deposited during AY 2017-18 was inline with cash deposited with other assessment years i.e. AY 2016-17 & AY 2018-19. Copy of comparison was submitted during the course of assessment proceedings.*
- 5) *Cash was deposited out of total cash in hand in the night of 8th November, 2016 and amount received from debtors.*
- 6) *Entire sales has been considered while computing profit for the year, considering cash deposit separately again as income would result in double taxation in the hands of appellant.*
- 7) *Without prejudice to above and in alternative, additions are bad in the law and illegal on merits as well hence it is alternatively prayed that the additions made may kindly be quashed.”*

2. Brief facts of the case are that the assessee e-filed his return of income, declaring income of INR 8,01,410/- on 07.11.2017. The return was processed u/s 143(1) of the Income Tax Act, 1961 (“the Act”). The case was selected for Limited Scrutiny through CASS on the issue of cash deposited during the year. Statutory notices were issued u/s 143(2) and 142(1) of the Act to the assessee to explain the source of cash deposits of INR 68,24,000/- in her bank account maintained with Canara Bank during demonetization period. In response thereto, the assessee had not complied to the said notices. Thereafter, a show cause notice dated 06.11.2019 u/s 142(1) of the Act, was issued to the assessee, requested to explain the source of cash deposit in her bank account which was remained uncomplied by the assessee. Therefore, the Assessing Officer (“AO”) proceeded to frame the assessment u/s 144 of the Act vide order dated 08.12.2019. Thereby, he assessed the income of the assessee at INR 76,25,410/-. The AO also initiated penalty proceedings against the assessee u/s 271AAC and 272A(1)(d) of the Act.

3. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who after considering the material available on records, dismissed the appeal in *limine*.

4. Aggrieved against the order of Ld.CIT(A), the assessee is now in appeal before this Tribunal.

5. Ld. Counsel for the assessee submitted that as per the nature of business, the assessee used to receive the cash from the counter sale and then deposited such cash in her bank account. During demonetization period, the assessee had deposited the available cash in hand in her bank account. He further submitted that the assessee had filed the audited balance sheet and P&L account alongwith tax audit report at the time of filing of income tax return but she could not submit the books of account due to strict bed rest of her husband. But the AO ignored the audited balance sheet and thus, made the impugned addition. He prayed that in the interest of natural justice, the matter may be restored to the file of Ld. CIT(A) for decision afresh on merit after affording reasonable opportunity to the assessee to represent his case.

6. On the other hand, Ld. Sr. DR for the Revenue opposed the submissions made on behalf of the assessee.

7. We have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. Considering the fact that there was no effective representation on behalf of the assessee before the authorities below. The Ld. CIT(A) dismissed the assessee's appeal in *limine* without giving any finding on merit for want of

relevant supporting evidences. It is stated by the assessee that certain evidences were filed during the course of assessment proceedings which has not been considered. In order to sub-serve the interests of natural justice and to provide an opportunity to the assessee to effectively represent his case, the order of Ld.CIT(A) is set aside and the matter is restored to the file of Ld. CIT(A) for decision afresh on merit, after providing reasonable opportunity of being heard to the assessee. The assessee would furnish the requisite evidences in support of her claim that the impugned cash deposits were out of sales. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 17<sup>th</sup> May, 2024.

***Sd/-***  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI