

2. Brief facts of the case are that the assessee is in the business of purchase and sale of goods under the name and style of M/s. Raghavendra Electricals. For the assessment year 2017-18, the assessee filed the return of income on 01/11/2017, declaring an income of Rs. 10,66,990/-. During the course of assessment proceedings, learned Assessing Officer noticed that on 10/11/2016, the assessee deposited cash of Rs. 40 lakhs in his bank account. Observation of the learned Assessing Officer from the cash book of the assessee was that between 01/04/2016 and 30/09/2016, the cash balances were varying from Rs. 2 lakhs to Rs. 5 lakhs on average and they increased in the month of October, 2016 to reach at Rs. 41,56,187/- on 08/11/2016, and after 20/11/2016 upto 31/03/2017, the cash balances varied between Rs. 2 to 5 lakhs only.

3. Assessee explained that during Diwali to Sankranti festival season, he offered a scheme to the electricians for the purpose of attracting the customers with gift of TVs for propaganda. Assessee also furnished the copies of purchase bills for TVs and also the photographs to prove the distribution of said TVs. Therefore, according to the assessee, this scheme yielded fruits in increase of sales. Learned Assessing Officer, however, did not go by this contention and recorded that this deposit of Rs. 40 lakhs remain unexplained and added it to the income of the assessee under section 68 of the Income Tax Act, 1961 ('the Act').

4. Assessee preferred appeal before the learned CIT(A). Learned CIT(A) on a perusal of the written submissions of the assessee and also the material produced by him including the VAT returns, observed that the VAT returns from pre November 2016 to November-December, 2016 do not show any major surge in sales as claimed by the assessee, such returns

do not contain any details like the names of the purchasing parties etc. Learned CIT(A) upheld the findings of the learned Assessing Officer and dismissed the appeal suspecting the genuineness of the claim of the assessee on the ground that the audit reports and annual accounts were finalized much after November 2016 and date-wise details of cash balances and bills of sale have not been produced, bank accounts show no cash deposits in April to October period commensurate with the sales in those months, the same situation was seen in December to March when the credits are mostly by transfer/clearing, and the commission expenses to electricians which supposedly boosted sales were paid after the close of current year, which was almost 8-12 months later. Learned CIT(A) accordingly dismissed the appeal. Hence, this appeal.

5. Learned AR submitted that the findings of the learned CIT(A) are factually incorrect and due to the festival season in October and November and also due to the scheme floated by the assessee, there was in fact boost in the sales, all the amount was deposited on the same day, that is immediately on the next working day after demonetization, hence no amount of pre-plan could be attributed to the assessee to circumvent the demonetization scheme.

6. Per contra, learned DR submitted that the assessee failed to explain the source for deposit of Rs. 40 lakhs on 10/11/2016, because the sales were not to that tune at any point of time prior to the demonetization. He also relied upon the observations of the learned CIT(A) in respect of VAT returns filed by the assessee. He submitted that there is no evidence about the scheme floated by the assessee and in the absence of any evidence, it

would be difficult to accept that the assessee properly explained the source for deposits during demonetization.

7. We have gone through the record in the light of the submissions made on either side. First of all, the business activity of the assessee is not disputed. Nextly the rise in the sales during October is attributed by the assessee to be festivals and the scheme. On a perusal of the patterns of sale for the assessment year 2015-16, we noticed that there was rise in sales during October in the financial year 2015-16 also. Apart from that, this year assessee claims to have introduced a scheme. Above all, what is relevant in this case is not the reasons for the increase in sales, but availability of cash in the hands of the assessee as on 08/11/2016. When we look at the VAT reconciliation statement, we noticed that even during August, there was an increase in sales by Rs. 4 lakhs in August and Rs. 2 more lakhs in September, 2016. There is nothing new in the rising sales in October, because it was so during the previous year also. On careful consideration of the figures in the VAT reconciliation statement, we find that the assessee had consistently shown the sales around and beyond Rs. 30 lakhs from October, 2016 to March, 2017. There was no need for the assessee to inflate the sales beyond 10/11/2016, if at all there were no such sales.

8. The sales in the month of October were around Rs. 36 lakhs whereas in September, 2016 those were at about Rs. 21 lakhs. There were no deposits in the bank worth noting before November, 2016 which facts supports the plea of the assessee that the cash was available on hand for business circulation and due to the demonetization, he was compelled to deposit into the bank. Apart from this, when the demonetization was

announced on the evening of 08/11/2016, the assessee deposited the entire amount in cash at the earliest opportunity on 10/11/2016 in lumpsum. It is difficult to attribute any design or plan to deposit some other amount to defeat the demonetization scheme.

9. The very fact that the assessee had sales consistently beyond Rs. 30 lakhs subsequent to November, 2016 also shows that there is infact hike in the sales and in the hindsight that lends credibility to the sales figures of the assessee for October, 2016 and if we believe such sales, they explain the source of deposit of Rs. 40 lakhs on 10/11/2016. There is no reason for us not to believe the same. Hence, while accepting the plea of the assessee, we find that the deposit of Rs. 40 lakhs on 10/11/2016 stood explained and do not warrant any addition. Grounds are answered accordingly.

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

Order pronounced in the open court on this the 21st day of May, 2024.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 21/05/2024

TNMM

Copy forwarded to:

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2. Income Tax Officer, Ward-1, Warangal.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD