

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI**

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

AND

SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER

ITA NO. 599/MUM/2024 (A.Y: 2017-18)

Atmaram Hazarilal Agarwal 10, Kailash Ashish Building 5 th floor, Dr. Ambedkar Road Mulund(West), Mumbai -400080 PAN: AAAPA5615K	v.	DCIT, CIRCLE-23(1) Matru Mandir, Mumbai Maharashtra - 400007
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Aditya Ramachandran
Department Represented by	:	Shri Sunny Kachhwaha
Date of conclusion of Hearing	:	28.05.2024
Date of Pronouncement	:	28.05.2024

ORDER

PER NARENDRA KUMAR BILLAIYA (AM)

1. This appeal by the assessee is preferred against the order dated 21.07.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2017-18.

2. The solitary grievance of the assessee is that the Ld. CIT(A) / NFAC erred in confirming the addition of ₹.1,04,03,630/- under section 68 of Income-tax Act, 1961 (in short "Act") being cash deposited during demonetization period.

3. At the outset, we observe that filing of appeal is delayed by 143 days. The assessee has filed a letter for condonation of delay supported by an affidavit. We have gone through the contents of the affidavit and find that the assessee is prevented by reasonable and sufficient cause and therefore, the delay is condoned.

4. Briefly stated the facts of the case are that the, assessee filed its return of income on 26.10.2017 declaring a total income of ₹.38,16,480/-. The return was selected for scrutiny assessment proceedings and accordingly, statutory notices were issued and served upon the assessee. During the course of the scrutiny assessment proceedings, the Assessing Officer came to know that the assessee has made following cash deposits in the bank accounts: -

Sr.No.	Bank Name	Account No.	Account Holder Name	Aggregate gross amount credited to the account in cash from 1st April, 2016 to 8th November, 2016 (Rs.)	Aggregate gross amount credited to the account in cash from 9th day of November, 2016 to 30th day of December, 2016 (Rs.)
1.	South Indian Bank	0306083000002386	Colour Plus	1,69,23,925/-	70,26,000/-
2.	Union Bank of India	316001010501341	Colour Plus	10,000/-	57,56,630/-
3.	Union Bank of India	317401010043117	Colour Plus	0/-	1,21,000/-

5. The Assessing Officer was of the opinion that the cash deposits during demonetization are much higher than average cash deposits in period prior to demonetization. The Assessing Officer, accordingly asked the assessee to explain. The assessee filed a detailed reply explaining that the cash deposits during demonetization is cash realized from debtors. It was explained that during the year under consideration the assessee has made total sales at ₹.16,90,11,095/- out of which cash sales was ₹.4,08,18,396/-. The explanation of the assessee was dismissed by the Assessing Officer who was of the firm belief that the assessee has artificially created bogus receipts in the form of payments from debtors by manipulating his books of accounts. The Assessing Officer went on to estimate the payments from debtors in cash at ₹.25,00,000/- and giving the benefit of the same the Assessing Officer

added ₹.1,04,03,630/- as unexplained cash deposits under section 68 of the Act.

6. Assessee carried the matter before the Ld. CIT(A) but without any success.

7. Before us, the counsel reiterated its claim and the Ld. DR supported the findings of the Assessing Officer.

8. We have carefully considered the orders of the authorities below.

The cash transactions statement filed by the assessee is as under: -

PAN : AAAPA5615K

Transaction Number : 3655979708

Cash Transactions 2016		
INCOME TAX DEPARTMENT		
Information from Bank/Institution		
1.	Bank/Institution	UNION BANK
2.	Account Number	316001010501341
3.	Transaction	Cash Deposit
4.	Amount	5756630
5.	Response	The account relates to this PAN
Explanation of Transaction(Cash Deposit)		
A	Account Details	
A.1	Bank/Institution	UNION BANK
A.2	Branch/IFS Code	BHULESHWAR MUMB AI
A.3	Account Number	316001010501341
A.4	Cash Deposit in the account between 9th Nov 2016 and 30th Dec 2016 (as reported)	5756610
A.5	Cash Deposit in the account between 9th Nov 2016 and 30th Dec 2016 (as confirmed by depositor)	5756630
	Remarks	
B	Source of Cash Deposit	
B.I	Cash out of earlier income or savings	1553680
	Remarks	The cash deposits of Rs 381000 are out of cash balance held in proprietary concern as on 08/11/2016 and c ash deposits of Rs.1172680 are out of cash he Id in personal balance sheet as on 08/11/2016
B.2	Cash out of receipts exempt from tax	
	Remarks	
B.3	Cash withdrawn out of bank account	0
B.4	Cash received from identifiable persons (With PAN)	4202950

SI.No	PAN of Person	Name of Person	Nature of transaction	Account Received	Remarks
1	CAMPB8436P	HASLEN ISLAM BANJARA	Cash Sales	489760	CASH RECEIVED ON VARIOUS DAYS
2	AULPN2256N	JAMEL AHMED	Cash Sales	493396	CASH RECEIVED ON VARIOUS DAYS
3	CNFPB3253E	SAI MOHD VALI MOHD BANJARA	Cash Sales	357500	CASH RECEIVED ON VARIOUS DAYS
4	DKJPK4496L	SALAMUDDIN SALA HUDDIN KHAN	Cash Sales	484722	CASH RECEIVED ON VARIOUS DAYS
5	BXNPB3654E	APSAR LALCHI BANJARA	Cash Sales	490560	CASH RECEIVED ON VARIOUS DAYS
6	CMAPK4793G	SALEEM KHAN	Cash Sales	363550	CASH RECEIVED ON VARIOUS DAYS
7	BNUPB7948G	MUMTAJ MALHU BANJARA	Cash Sales	486462	CASH RECEIVED ON VARIOUS DAYS
8	AFAPI4643G	IRSHAD ALI	Cash Sales	537000	
9	BWWPM3185P	ABDUL HASAN	Cash Sales	500000	
B.5	Cash received from identifiable persons (Without PAN)			0	
B.6	Cash received from un-identifiable persons			0	
B.7	Cash Disclosed To be disclosed under PMGKY				
	Remarks				
B.8	Balance (A.5 - B.I - B.2 - B.3 - B.4 - B.5 - B.6 - B.7)			0	

9. A perusal of the aforementioned details shows that the assessee has given complete details of the debtors from whom it has received the cash. It can also be seen that the assessee has furnished the PAN Numbers of the debtors. Ironically, the Assessing Officer has not done anything and do not even care to make any enquiry from the aforementioned persons but simply proceeded on surmises and conjectures and in his wisdom even went on to estimate the unexplained portion of the total cash deposits. The Assessing Officer has observed that **“The quantum jump in cash payment by debtors does not stand the test of principle of human probability”**. In fact, in all fairness during the demonetization period every person wanted to get rid of the demonetized currency and therefore, in all probability the

debtors repaid the debts in the demonetized currency to get rid of them. Therefore, the test of human probability is in favour of assessee.

10. However, considering the nature of evidences furnished by the assessee, in the light of the fact that the Assessing Officer has not pointed out a single error or defect in the books of accounts of the assessee, we do not see any merit in the impugned addition. We accordingly, direct the Assessing Officer to delete the addition. Appeal of the assessee is accordingly, allowed.

11. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 28th May, 2024.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Mumbai / Dated 28.05.2024
Giridhar, Sr.PS

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum