

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

**मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं**  
**मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**1. आयकर अपील सं. ITA No.1268/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

<b>DCIT</b> Non- Corporate Circle-2 Coimbatore.	<b>बनाम / Vs.</b>	<b>Smt. Vijayakumar Banumathy</b> 130-B, Cross Cut Road, Gandhipuram Coimbatore-641 012.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AGJPB-2250-Q</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

**&**

**2. Cross Objection No.55/Chny/2023**  
**(In ITA No. 1268 /Chny/2023)**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

<b>Smt. Vijayakumar Banumathy</b> 130-B, Cross Cut Road, Gandhipuram, Coimbatore-641 012.	<b>बनाम / Vs.</b>	<b>DCIT</b> Non- Corporate Circle-2 Coimbatore.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AGJPB-2250-Q</b>		
(अपीलार्थी/ <b>Cross Objector</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
अपीलार्थीकी ओरसे/ <b>Revenue by</b>	:	Shri AR V Sreenivasan (Addl.CIT)- Ld. DR
प्रत्यर्थीकी ओरसे/ <b>Assessee by</b>	:	Shri T. Banusekar (CA)-Ld. AR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	01-05-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	03-06-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year (AY) 2017-18 arises out of an order passed by learned Commissioner of Income Tax

(Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 21-09-2023 in the matter of an assessment framed by the Ld. Assessing Officer [AO] u/s.143(3) of the Act on 27-12-2019. The assessee has preferred cross-objection which is merely supportive in nature. The sole grievance of the revenue is deletion of addition of Rs.233.64 Lacs as made by Ld. AO in the assessment order. The grounds taken by revenue read as under: -

1. Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) was correct in not considering the fact that the assessee's cash sales for the period from 1<sup>st</sup> April to 8<sup>th</sup> November are extraordinarily high compared to the figure of corresponding previous year, when the cash sales made for the current year by the assessee is 150% compared to the cash sale for the previous year. CIT(A) failed to appreciate that, the increase in cash sales is concentrated on 2 months, i.e October 2016 and November 2016, the period for which assessee has time to file VAT return after announcement of demonetization. The details of same are as below:

Period	Cash Sales in 2016	Cash Sales in 2015	% Increase in Cash sales
October	56,62,690	23,57,880	140%
1 <sup>st</sup> to 8 <sup>th</sup> November	80,42,760	5,22,300	1439%

From the above table, it is clear that, assessee has achieved an increase of 1439 % in its cash sales in the 8 days preceding demonetization. No cogent explanation was offered by assessee for this increase in sale for the above period. Hence, the learned CIT(A) failed to appreciate that, there is a serious anomaly in the claim of assessee that the cash balance is out of cash sales effected.

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was correct in not considering the fact that the cash balance of the assessee as on 08<sup>th</sup> of November is 891% compared to the previous year. Assessee has not offered any explanation during the course of assessment proceedings as to why such high cash balance was being maintained by assessee. Further, CIT(A) also failed to appreciate the fact that, assessee was making regular cash withdrawals in the month of October and November 2016, out of its bank account, despite its claim of having such a huge cash balance in hand.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was correct in holding that the assessee's cash sale is not extraordinarily high and is only relatively high and in proportion to the turn over declared. CIT(A), relied of the total turnover and total cash deposits for the whole year to arrive at such a conclusion. However, the learned CIT(A) have not examined the month wise data of cash sales and cash deposits made, which was analyzed in detail by the Assessing Officer and based on which AO arrived at the conclusion that the cash balance as on 08/11/2016 was arrived at by booking bogus cash sales.

2. The Ld. Sr. DR advanced arguments in support of assessment as framed by Ld. AO whereas Ld. AR has drawn our attention to the findings rendered by Ld. CIT(A) in the impugned order. The Ld. Sr. DR pleaded that there were abnormal cash sales in this year. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under. The assessee being resident individual derived business income out of sale of silver / jewellery from proprietorship concern namely M/s Gayathri Silver Palace and admitted income of Rs.59.91 Lacs.

### **Assessment Proceedings**

3.1 It transpired that the assessee deposited cash of Rs.233.64 Lacs in Specified Bank Notes (SBN) post-demonetization. The assessee submitted that the same was sourced out of cash balance available prior to demonetization.

3.2 Upon perusal of financial data, Ld. AO noted that cash sales up-to 08-11-2016 was Rs.374.74 Lacs and cash balance as on 08-11-2016 was Rs.258.30 Lacs. In the corresponding period of earlier year, sales were Rs.250.26 Lacs whereas cash balance was Rs.28.98 Lacs. The percentage of cash sales to cash balance in AY 2016-17 was 150% which went up-to 891% in this year. Therefore, it was alleged that the assessee reflected high cash balance in this year.

3.3 The Ld. AO also tabulated the proportion of yearly cash sales and cash deposit as under: -

	<b>2015-16</b>	<b>2016-17</b>
Cash Sales	3,72,68,509	5,02,75,662
Total Sales	4,52,53,485	11,91,08,431
Cash Sales Turnover	0.82	0.42
Total Cash Deposit	1,40,34,783	3,12,98,449

The Ld. AO observed that there was substantial increase in cash sales in October and also between 01-11-2016 to 08-11-2016 which would show that the assessee had inflated its sales to explain source of SBN deposited by it. It was finally concluded that the closing cash balance was arrived at through bogus cash sales and it was solely intended to accommodate SBN deposit during demonetization period. Therefore, the amount of Rs.233.64 Lacs was added to assessee's income as unexplained money u/s 69A.

### **Appellate Proceedings**

4.1 During appellate proceedings, the assessee submitted that cash deposits were out of cash sales made up-to 07-11-2016 and the assessee produced all the relevant documents to prove the genuineness of cash sales. The Ld. AO neither rejected books of accounts nor recorded any defect in the explanation furnished by the assessee. The books of accounts were duly audited u/s 44AB. The assessee explained the source of cash deposits as sales of silver and produced relevant books of accounts and admitted the same as revenue receipts which were offered to tax. The conclusion of Ld. AO that the assessee made bogus sales was not substantiated by any corroborative material. No discrepancy was pointed out in sales and purchases register. The sales were substantiated by VAT returns which were accepted by VAT / sales tax authorities. The increase in sales was substantiated by the fact that these sales were in festive season like Navratri, Diwali and Akshaya Tritiya. The Ld. AO did not point out non-availability of stock. The assessee also furnished month-wise credit sales and cash sales for this year as well as for earlier year. It was also pointed out that stock register, sales and purchases ledger and VAT returns were submitted during the

course of assessment proceedings and no defect was noted in stock details, sales and purchases. Therefore, the addition was arbitrary and based on mere surmises and presumptions. The cash receipts were recorded in the books of accounts and therefore, the same could not be treated as unexplained income u/s 69A. Reliance was placed on various judicial decisions in support of submissions.

4.2 The Ld. CIT(A) concurred that cash sales were not extraordinarily high. They were relatively higher and in proportion to the turnover which the assessee had declared. The Ld. AO made addition in a routine manner and the same was without any basis. Accordingly, the impugned additions were deleted against which the assessee is in further appeal before us.

#### **Our findings and Adjudication**

5. From the fact, it emerges that the assessee has carried out sale of silver / jewellery during the year. The proportion of credit sales and cash sales is fairly distributed. The assessee's case was scrutinized to examine the source of cash deposited by it during demonetization period. During the course of assessment proceedings, the assessee furnished complete cash book for the period from 01-04-2016 to 31-03-2017 along with item-wise stock register. The same has been placed on page nos. 2 to 336 of the paper-book. The sales turnover as achieved by the assessee has duly been declared in VAT returns which have been accepted by VAT authorities. The financial statements are subjected to Tax Audit u/s 44AB. The Ld. AO has neither rejected the books nor made any adverse comment on stock movement. No discrepancies in sales and purchase have been noted in the assessment order. The cash

sales have duly been credited in the books of accounts and sales turnover has been offered to tax as revenue receipts.

6. It could further be seen that the assessee has sufficient cash balance as on 08-11-2016 to make the impugned deposits in the bank account. The assessee has furnished complete details of cash deposited by him during earlier financial year as well as during this financial year. Upon perusal of yearly data as extracted in preceding para 3.3, it could be seen that there is substantial increase in sales during this year and cash to sales turnover ratio has, in fact, declined from 0.82 to 0.42. The assessee is regularly conducting sales in cash which are being deposited in the bank account. The assessee has generated cash sales up-to 08-11-2016 which has been utilized to make impugned cash deposits in the bank accounts. Such sales have been offered in the Sales Tax Return as well as in the Income Tax Return which has been accepted. The stock-in-trade has moved out of assessee's books of account. The books have not been rejected by Ld. AO and no single defect could be pointed out by Ld. AO in the books or financial statement of the assessee. When the sales have been reflected in the books of accounts and offered to tax, adding the same would amount to double taxation which is impermissible in law. The cash sales proceeds have been credited in the books of accounts and the same form part of assessee's cash book. On these facts, it could very well be said that the assessee's claim was backed up by sufficient documentary evidences. The onus was on Ld. AO to rebut the same. However, the allegation of Ld. AO regarding bogus sales is bereft of any concrete evidence, primary or corroborative, as is evident from the assessment order. It is trite law that no addition could be made on the basis of mere suspicion,

conjectures and surmises. In the present case, the assessee has duly discharged the burden of establishing the source of cash deposit and the onus was on Ld. AO to disprove the same. However, except for mere allegation and few statistics, there is nothing on record to support the conclusions drawn by Ld. AO that the assessee's own unaccounted money was introduced and accommodated under bogus sales. Since cash generated out of sales has been credited in the books of accounts, the provisions of Sec.69A could not be invoked in the present case.

7. Our aforesaid view is duly supported by various decisions of Chennai Tribunal. These decisions include the decision in **DCIT vs. M.C. Hospital (142 Taxmann.com 122)**, the decision in **ITO vs. Sahana Jewellery Exports Pvt. Ltd. (157 Taxmann.com 680)** and also in **DCIT vs. M/s Navaratna Malligai (ITA No.801/Chny/2023 dated 05.04.2024)**. These case laws are on similar facts wherein bench has taken similar view favoring the assessee.

8. Finally, considering the facts and circumstances of the case, the adjudication of Ld. CIT(A) could not be faulted with. Concurring with the same, we dismiss the appeal of the revenue.

9. The Ld. AR has submitted that assessee's cross-objection is merely supportive in nature and therefore, no findings are required therein. The same stand dismissed as infructuous.

10. The revenue's appeal stands dismissed. The assessee's cross-objections stand dismissed as infructuous.

*Order pronounced on 3<sup>rd</sup> June, 2024*

Sd/-  
(MANU KUMAR GIRI)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 03-06-2024  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Coimbatore
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF