

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.933/Ahd/2023
Assessment Year: 2017-18**

Hinima Atul Shah, 202, Safal Param, Nr. Indraprasht-VI, Prahlad Nagar, Ahmedabad – 380 015. [PAN – AFGPS 2851 E] (Appellant)	Vs.	The Income Tax Officer, Ward – 3(3)(2), Ahmedabad. (Respondent)
Assessee by	Shri Tej Shah, AR	
Revenue by	Shri Urjit B. Shah, Sr. DR	
Date of Hearing	23.04.2024	
Date of Pronouncement	04.06.2024	

ORDER

This appeal is filed by the assessee against order dated 25.09.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal :-

- “1. *The Learned Commissioner of Income tax (Appeals) has erred in facts and in law and confirmed the addition made by Assessing Officer Amt. of Rs.35,29,394/- u/s. 68 of I.T. Act as a unexplained cash credit for cash deposited in a bank during the demonetization period for the A.Y.2017-18.*
2. *The Assessment made is bad in law, invalid and illegal. It be so held now and the same be quashed.*
3. *Direction to charge interest u/s. 234AB&C without application of mind is unjustified. It be so held now.”*

3. The assessee filed return of income for the Assessment Year (A.Y.) 2017-18 on 28.09.2017 at a total income of Rs.7,55,990/-. The assessee is an individual and claimed to have earned income from business, rent and interest income. The return of income was processed under Section 143(1) of the Income

Tax Act, 1961. The case was selected for scrutiny for the reason “cash deposited during demonetisation period”. Accordingly, notice under Section 143(2) of the Act was issued on 24.09.2018 which was served on the assessee electronically. Thereafter, notice under Section 142(1) was issued on 05.10.2019 and 17.06.2019 calling for details such as return of income, computation etc., cash book, Bank statement and source of cash deposit made by the assessee etc. in her bank account. During the assessment, the assessee furnished sale register, cash book with some bills of sales. The Assessing Officer observed that the assessee made cash deposit of Rs.35,19,500/- during the period of demonetisation in her bank account with Central Bank of India. The Assessing Officer observed that in various cases, addresses given by the assessee was not proper and, therefore, the assessee could not make any external enquiry. The cash sales shown by the assessee during the period of 10 days just before the demonetisation is not genuine but fabricated and after thought being colourable device used to show unaccounted cash as accounted one. Thus, the Assessing Officer held that the cash deposit of Rs.35,19,500/- during the demonetisation was out of the cash sale of Rs.35,29,394/- and the same is denied. Thus, the Assessing Officer made addition of Rs.35,29,394/- under Section 68 read with Section 115BBE of the Act treating the cash sales shown as unexplained cash credits within the meaning of Section 68 of the Act.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that once the Assessing Officer has accepted the assessee's sales, so cash generated through selling of gold ornaments and the same cash which was deposited in bank during the demonetisation period has been properly explained and, therefore, Section 68 of the Act will not be attracted in assessee's case. The Ld. AR further submitted that the parties during the demonetisation period have purchased huge quantity of jewellery on cash which was duly recorded in the books of account of the assessee and also the same tallied with the quantity of stock. Thus, having a huge cash sale cannot tantamount to undisclosed income. The Ld. AR further submitted that no adverse finding regarding books of account or stocks or cash sales and vouchers were

made by the Assessing Officer. In fact, the assessee has given all the details including bills related to the sale and purchase of silver and gold jewellery. The Ld. AR further submitted that the transaction related to the jewellery in respect of cheque was accepted and, therefore, the transaction in cash should also be accepted as the same is recorded in cash book as well as in the purchase and sales stock and duly recorded in books of account.

6. The Ld. DR submitted that the assessee is not having any history of business and, therefore, the transaction in jewellery especially that of gold is not justifiable only through the mere production of few bills in gold transaction. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer has accepted the transactions about purchase and sale of jewellery in gold and silver without raising any doubt regarding books of account, purchase and sale stock registers and the bills produced by the assessee. The cash transaction before the demonetisation period was also revealed by the assessee as the period before the demonetisation was also the period of Diwali and that itself shows that why the cash transaction took place in that particular period. There was no doubt created by the Assessing Officer in respect of purchase and sale of stock register as well as books of account. Since the stock register as well as the family evidences produced by the assessee are found to be genuine, the cash transaction has also been proved by the assessee being genuine transaction. These factual aspects were totally ignored by the Assessing Officer and CIT(A). Therefore, the appeal of the assessee is allowed.

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

Order pronounced in the open Court on this 4th June, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 4th June, 2024

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

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad