



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.163/CTK/2024**  
Assessment Year : 2017-18

Ashok Kumar Gupta, 12, Ganesh Market,, Soro, Balasore Odisha	Vs.	ACIT, Circle, Balasore
PAN/GIR No.ACEPG 6609 D		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Mohit Sheth, Adv  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 05/06/2024**  
**Date of Pronouncement : 05/06/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 26.3.2024 in Appeal No. CIT(A),Cuttack/10442/2019-20 for the assessment year 2017-18.

2. Shri Mohit Sheth, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is an individual, who is doing the business of consumable goods. It was the submission that the assessee had earned income of Rs.40 lakhs under the head "income from other sources" and had offered the same in his profit and loss account. It was the submission that this amount of Rs.40 lakhs has been deposited by the assessee in his bank account with UCO Bank, Soro. It was the submission that this amount was in SBN currency. It was the further submission that when computing the trading and profit and loss account, the assessee included the amount of Rs.40 lakhs in its income and had determined the total income at Rs.46,11,748/- and had filed his return of income disclosing the total income at Rs.44,51,750/-. It was the submission that in the course of assessment, the Assessing officer treated SBN currency of Rs.40 lakhs deposited in UCO Bank as unexplained income of the assessee and made an addition of Rs.40 lakhs. Further, from the profit and loss account, the Assessing officer treated Rs.40 lakhs shown under the head "income from other sources" as being without any sources and made further addition of Rs.40 lakhs. It was thus the submission of Id AR that when preparing the profit and loss account, the assessee has himself disclosed Rs.40 lakhs and has determined the income at Rs.46,11,748/-. The said Rs.40 lakhs deposited in the bank account of Uco Bank, was treated as unexplained income of the assessee. Further, on the ground that the profit and loss account of the assessee showed income of Rs.40 lakhs

from other sources, same amount was treated as unexplained cash credit and same was again assessed. It was the further submission that on appeal, the Id CIT(A) deleted the addition representing cash credit u/s.68 of Rs.40 lakhs. However, he confirmed the addition of unaccounted money deposited in the form of SBN currency. It was the submission that the said amount of Rs.40 lakhs have been taken from the profit and loss account of the assessee and if the said amount have not been accepted as income of the assessee the said amount having not been included when computing the profit of the assessee and as same being part of the total income disclosed by the assessee in its return of income, it cannot be treated unaccounted money deposited in the bank in the form SBN currency and the addition made by the AO and confirmed by Id CIT(A) is liable to be deleted.

4. In reply, Id Sr DR submitted that the assessee had cash availability as per cash book at Rs.52,32,600/- and the same amount was deposited in two deposits of Rs.25 lakhs each. It was the submission that this amount of Rs.40 lakhs which has been deposited by the assessee on 28.11.2016 in the form of SBN currency in Uco Bank could not be treated as part of the business income of the assessee as in cash book no entry was found in this respect. It was the submission that the assessee has not explained the source of SBN currency of Rs.40 lakhs deposited in the bank account in

Uco Bank, Soro and the addition made by the AO and confirmed by the Id CIT(A) is liable to be upheld.

5. We have considered the rival submissions. For better understanding the fact, it would be worthwhile to extract the profit and loss account of the assessee, which is as follows:


PROP. ASHOK KUMAR GUPTA  
SORO, BALASORE

**TRADING AND PROFIT & LOSS ACCOUNT FOR THE YEAR ENDED 31.03.2017**

PARTICULARS		Rs.	PARTICULARS		Rs.
To Opening stock		3,966,621.08	By Sales ( net of Sales Discount)		212,379,972.60
To Purchase	211,300,007.01		By Closing Stock ( valued at cost and certified by the proprietor)		10,700,408.51
To Entry Tax Paid	338,007.00				
To Freight Paid	2,621,985.00	214,289,999.01			
To Gross Profit c/d		4,853,761.02			
		<u>223,080,381.11</u>			<u>223,080,381.11</u>
To Audit Fees	14,160.00		By Gross Profit b/d		4,853,761.02
To Bank Charges & Commission	78,246.43		By CCF/DRP Received		42,624.30
To Computer Software Exps	44,350.00		By Rounding Difference		8.76
To CCF & Damaged Goods	56,524.05		By Sundry Balance Written Off		
To Depreciation	35,296.46		By Incentive Received		355,468.51
To Insurance	56,695.00		By Discount Received		368,943.74
To Interest	181,169.00		By Interest Received on FD		47870.00
To Legal Expenses	50,000.00		By Interest Received on SB A/c		14198.00
To Loading & unloading Expenses	651,414.00		By Income from Other sources		4000000.00
To Misc. Shop Exps.	54,972.00				
To Paper & Periodical	1,900.00				
To Postage	36,300.00				
To Printing & Stationery	45,718.00				
To Professional Expense	157,800.00				
To Rent	576,000.00				
To Repairs & Maintenance	49,500.00				
To Salaries & Wages	1,090,000.00				
To Sales & distribution Exps.	1,021,198.00				
To Sales Promotion Exps.	208,980.00				
To Telephone Charges	13,383.00				
To Travelling Exps.	284,410.00				
To Van Operating & Maint. Chqs	363,111.98	5,071,125.92			
To Net Profit transferred to Capital A/c		4,811,748.41			
<b>TOTAL:</b>		<u>9,682,874.33</u>	<b>TOTAL:</b>		<u>9,682,874.33</u>

In terms of our separate report of even date attached.  
For J.K.PODDAR & CO.  
CHARTERED ACCOUNTANTS,  
(JOGESH KUMAR PODDAR)  
PROPRIETOR  
( Memb. No. 52129)

Place: Balasore  
Date: 31.10.2017



6. On perusal of the profit and loss account clearly shows that the assessee has shown Rs.40 lakhs under the head "income from other sources". This amount of Rs.40 lakhs has been considered by the assessee when arriving at the net profit of Rs.46,11,748/-. Should the AO want to

treat the amount of Rs.40 lakhs as unexplained income of the assessee, first he should have recast the profit and loss account of the assessee and excluded Rs.40 lakhs shown under the head "income from other sources". This has not been done by the AO. In fact, when determining the total income of the assessee, the Assessing officer has shown Rs.44,51,750/-, in the computation as declared in the return of income, which derived from the profit & loss account. This being so, clearly, the assessee has taken this amount of Rs.40 lakhs in profit and loss account and this amount of Rs.40 lakhs has been deposited by the assessee in his bank account with Uco bank, Soro. The assessee had clearly shown the source as being income from other sources in his profit and loss account. Ld CIT(A) deleted the addition made towards this amount which itself establish the source for SNB deposit in the bank account. In view of these facts, the addition made by the AO and as confirmed by Id CIT(A) in respect of deposit of SBN currency of Rs.40 lakhs in the bank account of the assessee with Uco Bank on 20.11.2016 stands deleted.

7. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 05/06/2024.

Sd/-  
**(Manish Agarwal)**  
ACCOUNTANT MEMBER  
Cuttack; Dated 05/06/2024  
B.K.Parida, SPS (OS)

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant : Ashok Kumar Gupta, 12,  
Ganesh Market,, Soro,Balasore Odisha
2. The Respondent: ACIT, Circle, Balasore
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**