

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुकला, लेखा सदस्य के समक्ष  
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.671/Chny/2023

निर्धारण वर्ष /Assessment Years: 2017-18

SJLT Textiles Private Limited  
2E Second Floor, Prince Arcade  
Cathedral Road, Chennai-86  
[PAN: AAICS2028M]

Asst. Commissioner of Income Tax,  
Corp Circle-6(2), Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Ms.Sandyaarthi, CA

प्रत्यर्थी की ओर से /Respondent by

: Shri ARV Srinivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 04.06.2024

घोषणा की तारीख /Date of Pronouncement

: 12.06.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2022-23/1051736551(1) dated 31.03.2023 of Ld.CIT(A)/NFAC. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 31.03.2023 passed by Ld.CIT(A)/NFAC.

2.0 Aggrieved by the order the assessee has raised grounds of appeal No.1 to 12 contesting the disturbance made to its return of income by making an addition of 2,99,55000/- under 69A of the Act

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which was relatable to cash deposits made in assessee's bank account between the period 09.11.2016 to 31.12.2016.

3.0 Brief facts of the case are narrated by the assessing officer on Page-7 of the assessment order as under:

*"...Addition u/s 69A*

*During the demonetization period the assessee-company is said to have deposited Rs.2,91,55,000/- between, 08.11.2016 to 30.12.2016. The assessee-company has claimed that it had a cash balance of Rs.3,10,94,233/- at the opening of 09.11.2016. The assessee-company has furnished a summary for cash with multiple inflows throughout the year, the authenticity of which could not be verified in the absence of explanation for the sources of such inflows. Further, it is not substantiated with satisfactory evidence as to what was the necessity to hold cash of such a huge volume when the closing cash as on 31.03.2016 was only Rs.6,42,371.45.*

*It appears that the assessee-company has pumped in cash to facilitate deposit of SBN on the announcement of demonetization but have adjusted the entries suiting its requirements to show a gradual buildup of cash balance so as to explain the abnormal cash balance and subsequent deposits resulting out of demonetization. As the assessee-company has not explained the source for the deposit of Rs.2,91,55,000/- made post demonetization, the same is added to the income u/s 69A to be taxed u/s 115BBE of the Act..."*

4.0 The Ld.CIT(A) confirmed the order of the AO holding that the assessee has not been able to rebut the observations made by the AO. It was held that no evidence was produced to indicate cash deposits in preceding / succeeding periods.

5.0 Before us through its letter dated 04.06.2024 during the course of present proceedings, the assessee moved a petition for admission of additional evidences, which in its opinion is critical and crucial for the matter under consideration.

*“...With regard to the aforementioned appeal before your Hon'ble Self, the issue under consideration is the addition of Rs. 2,91,55,000 u/s. 69A made by the Learned Assessing Officer and confirmed by the Ld.CIT(Appeal) contending that the source of deposits made have not been explained. In this regard, Appellant would like to submit that the Ld. Assessing officer has made this addition without any rational based on surmises though the cash book was submitted on 19.12,2019 during the assessment proceedings regarding the cash deposits made which were from bank withdrawals relatable to sales done prior to the period of deposits.*

*To support its contention on the same, Appellant had made a submission dated 06.03.2024, which the Appellant requests the Hon'ble Bench to admit as additional evidence in the interest of Justice under Rule 29 of the ITAT Rules. 1963.*

*The additional evidence referred above are only an elaborated and detailed version of the submissions made before the Learned Assessing Officer and do not give rise to fresh facts of the case. The evidence encloses detailed cash book of both Unit I and Unit II of the Appellant & the bank statements which discloses that the cash deposits made during demonetization period are predominantly on account of accumulation of the cash withdrawals, out of genuine source of business income, made over the period as highlighted in the bank statements. The evidence submitted dated 06.03.2024 containing the transactions with explanation have not been submitted before the Ld. Assessing officer and the Commissioner of Income Tax (Appeals) as the Appellant was under the impression that the consolidated version of cash book of both the units submitted during the course of assessment proceedings would suffice to*

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*substantiate its claim of cash deposit made. Omission to furnish this evidence was neither willful nor unreasonable. Further, appellant would like to humbly submit before the Hon'ble Bench that the appellant was not called for to submit any further information relating to the cash deposit during the course of assessment and the first appeal proceedings which is not in accordance with the standard operating procedure (SOP) issued by the Central Board of Direct Tax (CBDT) which is to be adhered to while making additions in respect of cash deposits during the demonetization period. However, since the same is crucial for deciding the issue under consideration with regard to cash deposits made during demonetization period, Appellant prays before your Hon'ble Self to kindly consider the same. Addition of Rs.2,91,55,000 would only tantamount to double addition as the income offered by the appellant has not been doubted by the Learned Assessing Officer..."*

6.0 The Ld.AR of the assessee accordingly pleaded that in the interest of justice the matter be restored to the file of the AO for reconsideration of the whole matter by considering the impugned additional evidences. The Ld.AR submitted that it was not accorded sufficient opportunity to present its case and that the AO had issued its notice dated 17.12.2019 for compliance by 19.12.2019 and that the order was passed on 28.12.2019. Thus within a short span of just two days the assessee was required to make compliance to the voluminous requirement. The assessee submitted that prior to this notice no other show cause was given to for furnishing the requisite detailed evidences.

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7.0 The Ld.DR vehemently opposed setting aside the matter to the file of the AO. It was submitted that notices u/s 142(1) were issued to the assessee in the month September 2019.

8.0 Ground of appeal No. 1 is general in nature and does not require any specific adjudication.

9.0 As regards ground of appeal Nos. 2 to 10, we have heard rival submission in the light of facts of the case and material brought on records. The factum of assessee not being provided sufficient opportunity of being heard, on this matter, is clearly evident from records. Opening para of the assessment order dated 28.12.2019 shows that the first scrutiny notice u/s 143(2) was sent to the assessee on 25.09.2018. Thereafter notice u/s 142(1) was issued on 12.09.2019 which was complied. Thereafter the AO issued notice dated 17.12.2019 for compliance by 19.12.2019. It is abundantly clear that a period of just two days is far too inadequate to fall under the category of a reasonable period for compliance on any issue. The Ld.CIT(A) has failed to appreciate this crucial aspect of the issue under consideration.

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10.0 Adequate opportunity of being heard to an aggrieved party is a natural right and cannot be violated. Any order passed in violation of this right is liable to be quashed. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file supporting evidences before the Ld.AO. Accordingly, placing reliance upon the decision in the case of TIN box 249 ITR 216 the matter is restored to the file of the AO for reconsidering the addition of Rs. 2,99,55,000/-. The assessee is directed to make complete and correct compliance towards the notices issued by the AO. To the extent we set aside the order of the Ld.CIT(A) as well as of the assessing officer on the contested addition of Rs.2,99,55000/- u/s 69A of the Act. The assessee is directed to furnish all the evidences in support of its claim to the assessing officer and comply. Accordingly, the ground of appeal nos. 2 to 11 raised by the assessee are partly allowed.

11.0 Ground of appeal No.11 regarding non-consideration of eligible MAT credit while computing tax liability is consequential in nature. The AO is directed to, after determination of taxable income, allow eligible MAT credit as per law.

12.0 Ground of appeal No.12 qua levy of interest u/s 234B & 234C are consequential in nature and do not require any separate

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adjudication. The assessing officer is directed to, after determination of taxable income, compute and levy interest u/s 234B & 234C as per law.

13.0 In the result the appeal is partly allowed for statistical purposes.

*Order pronounced on 12<sup>th</sup> June, 2024 at Chennai.*

**Sd/-**

(यस यस विश्वनेत्र रवि)

**(SS Viswanethra Ravi)**

न्यायिक सदस्य / **Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 12<sup>th</sup> June, 2024.

KB/-

**Sd/-**

(श्री अमिताभ शुक्ला)

**(Amitabh Shukla)**

लेखा सदस्य / **Accountant Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Coimbatore / Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF