

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 95/Kol/2024
Assessment Year: 2017-18

Suporna Manna Parbangla Baddir Bandh B.T. Road, Maheshtala 24, Parganas (South) West Bengal - 700140 [PAN: AFDPM9941E]	Vs	Assistant Commissioner of Income Tax, Circle - 26(1), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Miraj D. Shah, A.R.
Revenue by :	Shri Manas Mondal, Addl. CIT, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 29/04/2024
घोषणा की तारीख/**Date of Pronouncement** : 10/06/2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The instant appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi [hereinafter the "Id. CIT(A)"] dt. 28/11/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2017-18.

2. Though the assessee has raised as many as seven grounds but the first grievance is that the assessee failed to file any additional evidence before the Id. CIT(A) as a result of which the facts could not be placed for necessary adjudication and, therefore, permission may be granted to file the same before the Id. CIT(A) to decide the issue afresh. The second issue raised is against the addition of Rs. 1,13,58,820/- made on account of excess cash deposit into the bank account.

3. At the outset, the Id. Counsel for the assessee submitted that there is mismatch of details of cash deposited and cash sales filed before the Id. Assessing Officer during the assessment proceedings and the details appearing in the audited financial statements. Prayer made that the matter be restored to the file of the Id. Assessing Officer so that, the assessee could file evidence in support of its contentions that there is no unexplained cash deposit.

The Id. D/R, though not leaving his grounds, did not oppose to this request of the Id. Counsel for the assessee.

4. We have heard rival contentions and perused the material placed before us. We notice that the assessee is an individual and runs a petrol pump of Bharat Petroleum Corporation Limited under the trade name of Suporna Filling Station, as a sole proprietor. Income of Rs. 8,15,110/- declared in the return of income e-filed on 04/10/2017 for Assessment Year 2017-18. Case selected for scrutiny through CASS followed by issuance of notice u/s 143(2) & 142(1) of the Act and the AO carried out the assessment proceedings. The year under consideration is financial year 2016-17 during which demonetisation scheme was announced. The Id. AO wanted to examine the cash deposits during the year and so he asked the assessee to deposit the month-wise cash sales and deposits. The Id. AO observed that, on one hand, the details of sales filed by the assessee shows a figure of Rs.14,34,63,819/- whereas in the audited accounts it reflects Rs.13,00,37,067/-. Further certain informations were called for but some of the details of cash sales and cash deposits were not found correct by the AO and the assessee again furnished the correct

details. However, the Id. AO was still not satisfied and he calculated the excess cash deposit of Rs.1,13,58,820/- observing as follows:-

As discussed above, there was no credible information provided by the assessee which could be relied upon for ascertaining the total sales of the assessee. As per bank statement the total deposit is Rs. 10,78,97,230/- whereas the cash sales during the year was Rs.9,85,06,825/- as per both the original and revised submission. The said figure of cash sales has been shown in all the columns regarding cash sales or cash deposit. Hence, the said figure of cash sales is considered for the instant proceedings. Now, considering the same, the following data is drawn:

Sl.	Description	Amount
a.	Total Cash Deposit	10,78,97,230/-
b.	Cash Sales	9,85,06,825/-
c.	Cash Expenses	19,68,415/-
d.	Actual cash available to deposit (b-c)	9,65,38,410/-
e.	Excess Cash Deposit (a-d)	1,13,58,820/-

4.1. Further assessee carried the matter before the Id. CIT(A) but did not get any relief and the same was also on account of the reason that the assessee failed to file additional evidence. Now, from the details filed before us containing 129 pages, we notice that total cash sales reported by the assessee is Rs.10,34,81,636.94/- whereas the cash sales shown by the Id. Assessing Officer in the assessment order is Rs.9,85,06,825/-. Further there are certain realization from the debtors during the year which have also not been considered by the Id. Assessing Officer. We note that there is variation in the figure of cash deposited in the bank account as claimed by the assessee *vis-à-vis* the observation of the Id. Assessing Officer.

5. Under these given facts and circumstances, where there is a mismatch of information about the cash deposit and cash sales as appearing in the assessment order and those appearing in the regular books and audited financial statement and that the Id. D/R failed to controvert this

contentions that the issue needs reconciliation and no details were placed before Id. CIT(A) and details to be filed before Id. AO needs to be rechecked and reconciled, we being fair to both the parties restore all the issues to the file of the Id. Assessing Officer to examine them afresh in the light of the details filed by the assessee and then come to a conclusion whether there is any unexplained cash deposit during the year and then decide in accordance with law. Needless to mention that Id. Assessing Officer shall provide sufficient opportunity of being heard to the assessee. Accordingly, the grounds of appeal raised by the assessee are allowed for statistical purposes.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 10th June, 2024 at Kolkata

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 10/06/2024

SC S.P.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata