

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD**

**BEFORE
SHRI MANJUNATHA G., Hon'ble ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No. 591/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Prakash Chand Jain, Vs. Income Tax Officer,
Hyderabad Ward-7(2),
[PAN: ACEPJ5142J] Hyderabad
अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Siddharth Toshnival, AR
राजस्व द्वारा/Revenue by: Shri T. Venkanna, DR

सुनवाई की तारीख/Date of hearing: 19-06-2024
घोषणा की तारीख/Pronouncement on: 19-06-2024

आदेश / **ORDER**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 08-04-2024 and pertains to assessment year (AY) 2017-18.

2. The brief facts of the case are that the appellant is an individual and carrying on the business of trading in cycles under the name and style of M/s. Jai Cycle Company. For the

AY. 2017-18, the assessee filed return of income, admitting a total income of Rs. 6,71,640/-. The case was selected for scrutiny to verify the large value of cash deposits in the bank account of the assessee.

2.1. During the course of assessment proceedings, the AO noticed that the assessee has made cash deposits of Rs. 28,58,000/- into the account of Vardhman Mahila Co-Op. Bank, Hyderabad and HDFC Bank, Hyderabad during demonetization period. The AO called upon the assessee to file necessary bank statements and also explain the sources for cash deposits. In response, the assessee submitted that he is into the business of trading in cycles and accessories and also maintains regular books of accounts. The credits appeared in Vardhman Mahila Co-Op. Bank, Hyderabad and HDFC Bank, Hyderabad were accounted in the books of accounts. The source of cash deposits was out of opening cash in hand as on 08-11-2016. The AO, however, was not satisfied with the explanation furnished by the assessee and accordingly treated the said sum of Rs. 28,58,000/- as 'un-explained' and thus made addition u/s. 69 r.w.s. 115BBE of the Income Tax Act, 1961 ("the Act"). The AO further noticed that the assessee has declared sales turnover of Rs. 2,98,33,689/-, whereas the total credits in his bank account was at Rs. 3,70,94,611/-. Therefore, the difference amount of Rs. 72,60,922/- has been treated as 'turnover' and estimated 5% net profit and made addition of Rs. 3,63,046/-. Being aggrieved by the

assessment order, the assessee preferred appeal before the Ld.CIT(A).

3. Before the Ld.CIT(A), assessee reiterated his arguments made before the AO and also submitted relevant cash flow statement to explain the source of cash deposits during demonetization period and also difference in turnover quantified by the AO. The Ld.CIT(A) after considering the submissions of the assessee and also taken note of relevant facts, sustained the additions made towards the cash deposits during demonetization period u/s. 69 r.w.s. 115BBE of the Act. Ld.CIT(A) had also sustained the estimation of 5% profit on difference in amount of turnover, quantified by the AO on the basis of sales turnover declared by the assessee and total credits with bank accounts. Aggrieved by the order of Ld.CIT(A), assessee preferred appeal before the Tribunal.

4. The Ld.Counsel for the assessee, Shri Siddharth Toshnival, Advocate, submitted that Ld.CIT(A) is erred in sustaining and additions made towards cash deposits u/s. 69 r.w.s. 115BBE of the Act, without appreciating the fact that the assessee has explained the cash deposits out of opening cash in hand as on 08-11-2016. The Ld.Counsel for the assessee further referring to the abstract of Cash Book for the relevant period submitted that the cash balance as per Cash Book maintained by the assessee as on 08-11-2016 was about Rs. 23 lakhs. The cash deposit on 29-12-2016 of Rs. 2,20,000/- is not out of demonetized specified bank notes, but

in regular currency. The remaining cash deposit was out of the sale proceeds of the assessee. Although these evidences have been filed before the AO, both the Revenue authorities rejected the explanation filed by the assessee and sustained the addition.

4.1. Insofar as estimation of profit on differential turnover quantified by the AO, Ld.Counsel for the assessee submitted that credit in bank account is not income of the assessee, there may be cases where inter bank transfers, collection from debtors out of sales declared for earlier financial years, cash withdrawal and deposits. Assessee has maintained regular books of accounts and explained each and every credit. The AO ignored all the details, and quantified the difference in turnover on the basis of sales turnover declared by the assessee and total credits appeared in bank account. Therefore, he submitted that to verify the same, the issue may be set aside to the file of the AO.

5. The Ld.DR, Shri T. Venkanna, on the other hand, supporting the order of the Ld.CIT(A), submitted that the assessee could not explain the source of cash deposits during demonetization period in specified bank notes. Although, the assessee claims to have opening balance as on 08-11-2016, but no evidence has been filed before the Ld.CIT(A). Therefore, the matter may be set aside to the file of the AO to verify the facts and to decide the issue as per law.

6. I have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the assessee has made cash deposits of Rs. 28,58,000/- during demonetization period. The assessee maintains regular books of accounts and his books have also been audited u/s. 44AB of the Act. The bank accounts considered by the AO were part of regular books of accounts of the assessee and also credits and debits appeared in the said two bank accounts were accounted in the books of accounts of the assessee. As per cash book maintained by the assessee for the FY. 2016-17, the opening cash in hand as on 08-11-2016 was at about Rs. 23 lakhs, which is available for the assessee to explain the source of cash deposits. The assessee has filed extract of Cash Book and as per the said Cash Book, the availability of opening cash in hand was not disputed. Therefore, I direct the AO to allow the credit to the extent of opening cash balance available as on 08-11-2016 towards addition made for cash deposits into the bank account during demonetization period.

6.1. Further, the assessee claims that cash deposit of Rs. 2,20,000/- on 29-12-2016 is not out of specified bank notes, but out of regular currency and source for the said cash deposits is out of the sales turnover of the assessee. The assessee has filed Cash Book extract and as per the said Cash Book, cash deposit as on 29-12-2016 was explained out of the

sales turnover. Therefore, the AO is directed to verify the claim of the assessee and if the assessee is right, that cash deposit of Rs. 2,20,000/- is not out of the specified bank notes, then, the AO is directed to allow the credit to the extent of Rs. 2,20,000/- for the addition towards cash deposits during demonetization period. The remaining cash deposit is not explained by the assessee with known source of income, therefore, I direct the AO to sustain the balance cash deposit in specified bank notes during demonetization period.

6.2. As regards the estimation of profit on differential amount on turnover, in my considered opinion, the approach followed by the AO is completely erroneous and incorrect. All credits and debits appearing in the bank accounts are not income or expenditure of the assessee. There may be credits pertaining to inter-bank transfers, credits pertaining to collection out of debtors, loan transactions, cash withdrawals and re-deposits. When the assessee is maintaining regular books of accounts and accounted all the transactions appearing in the bank accounts, then the AO cannot compute difference in turnover on the basis of total credits appearing in the bank accounts and sales turnover declared by the assessee. Therefore, I set aside the issue of estimation of profit on differential amount of turnover to the file of the AO and direct the AO to verify the issue in light of books of accounts maintained by the assessee. In case, the AO found that credits appeared in the bank accounts are accounted as

explained by the assessee, then the AO is directed to delete the additions made towards estimation of profit on turnover.

7. In the result, the appeal of the assessee is treated as partly allowed for statistical purposes.

Order pronounced in the open court on this the 19th day of June, 2024.

Sd/-
(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 19-06-2024

TNMM

Copy forwarded to:

1. Prakash Chand Jain, 15-3-65/2, Beside Gurudwara,
Gowliguda, Hyderabad.
2. Income Tax Officer, Ward-7(2), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD