

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

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1359/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2017-18)

M/s R.R. Foods 20, Kamala II Street, Chinna Chokkikulam, Madurai-625 002.	बनम/ Vs.	ITO Non-Corporate Ward-1(7) Madurai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAPFR-0879-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Y. Sridhar (FCA) - Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri R. Mukundan (JCIT) - Ld. Sr. DR
सुनवाई की तारीख/ Date of Hearing	:	12-06-2024
घोषणा की तारीख / Date of Pronouncement	:	03-07-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 25-09-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 20-12-2019. The sole grievance of the assessee is confirmation of addition of Rs.90.49 Lacs as unexplained money u/s 69A of the Act.

2. The Ld. AR advanced arguments supporting the case of the assessee whereas Ld. Sr. DR supported the orders of lower authorities. The Ld. AR submitted that the assessee was engaged in business activities and the cash was sourced out of business receipts. Having heard rival submissions and upon perusal of case records, our adjudication would be as under. The assessee being a partnership firm is stated to be engaged as wholesaler dealer of Nestle India Limited products. During the year, the assessee became dealer of ITC Limited. The assessee distributes the products to retailers and petty shops on cash basis. For this year, the assessee admitted income of Rs.4.79 Lacs on sales turnover of Rs.31.87 Crores.

Proceedings before lower authorities

3.1 During the course of assessment proceedings, it was noted that the assessee deposited Specified Bank Notes (SBNs) of Rs.127.46 Lacs during demonetization period. As on 08-11-2016, the assessee was having cash balance of Rs.36.81 Lacs. The assessee submitted that deposits were sourced out of cash sales and collection from debtors. However, Ld. AO held that the assessee accepted SBNs from customers / agents for sale of ITC products and from debtors despite the fact that the same ceased to be legal tender. Accordingly, the differential deposit of Rs.90.64 Lacs was to be treated as unexplained money u/s 69A. Consequently, Ld. AO reduced proportionate profit on such receipts and added the remaining amount of Rs.90.49 Lacs to the income of the assessee as unexplained money u/s 69A.

3.2 During appellate proceedings, the assessee assailed application of Sec.69A on the ground that the impugned transactions were duly recorded in the books of account and the nature and source of cash

deposits was duly explained. During the course of assessment proceedings, the assessee submitted cash book reflecting transactions of cash deposit including SBNs and no defect was pointed in the same. The books were not rejected u/s 145(3). Further, CBDT brought out Standard Operating Procedure for AO to handle demonetization case vide circular dated 09-08-2019 specifically instructing AO to make comparative analysis of cash sales, cash deposits year-wise. The Ld. AO did not carry out any such exercise and did not point out any unusual increase in cash sales as compared to earlier assessment years. The assessee also submitted supporting documents that the cash was generated out of cash sales and collections from debtors. However, Ld. CIT(A) chose to confirm the impugned addition against which the assessee is in further appeal before us.

Our findings and Adjudication

4. From the fact it emerges that the assessee-firm was engaged as wholesale dealer of Nestle India Ltd. products till 31-07-2016 and distributed the products to various retailers and petty shops on cash basis. With effect from 01-08-2016, the assessee surrendered the dealership and became wholesale dealer of ITC Limited. Considering the nature of assessee's business, it would collect cash from petty retailers, deposit the same in his bank account and thereafter remit the same to its principal supplier. The assessee has deposited cash of Rs.128.71 Lacs during demonetization period which has partly been accepted. The Ld. AO has made addition only for those deposits which are in SBNs. However, the fact would remain the same that those cash has been generated out of business activities only since the assessee do not have any other source of income. Such cash collections form part of books of

account of the assessee. No defect has been pointed in the same. The assessee has furnished cash books which would show that the aforesaid deposits have been sourced out of business receipts only. It could also be seen that the deposits so made by the assessee has been remitted to the principal supplier only. The Ld. AR has placed on record month-wise cash book break-up which would show that major sales are in cash which are regularly deposited in the bank account and no abnormality could be noted in this pattern post demonetization announcement. On these facts, impugned additions could not be sustained. The Ld. Sr. DR has referred to the decision in Vidhiyasekaran Pradeep Malliraj (ITA No.698/Chny/2022). We find that the same is distinguishable on facts. In that case, the assessee could not fully substantiate the source of cash deposit with sufficient documentary evidences. In the present case, Ld. AO has not followed the prescribed standard operating procedure. Further, Ld. AO has reduced merely the profit margins on sales while making impugned additions. The said working would assume that the purchases were also not genuine which was never the case of Ld. AO. Therefore, we would hold that impugned addition is liable to be deleted. We order so.

5. The appeal stand allowed in terms of our above order.

Order pronounced on 3rd July, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / **JUDICIAL MEMBER**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 03-07-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Madurai.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF