

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**

**Before Shri Manjunatha, G. Accountant Member and**  
**Shri K. Narasimha Chary, Judicial Member**

आ.अपी.सं / **ITA No.76/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)


Income Tax Officer Ward 9(4) Hyderabad	Vs.	Shri Sunil Kumar Kumar Hyderabad PAN:AQPPK9880P
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri P Murali Mohan Rao, CA	
राजस्व द्वारा / Revenue by:	Shri CH Rajeswara Reddy, DR	
सुनवाई की तारीख / Date of hearing:	01/07/2024	
घोषणा की तारीख / Pronouncement:	01/07/2024	

**आदेश/ORDER**

**Per Manjunatha, G. A.M**

This appeal filed by the Revenue is directed against the order dated 16/11/2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. The Revenue raised the following grounds:

1. Whether on the facts and in the circumstances of the case, the CIT(A) ought to have observed that sufficient opportunity has been given to the assessee to produce the evidences during assessment proceedings, however the assessee has not complied to the statutory notices and thus the AO was compelled to complete the assessment ex-parte.
2. Whether on the facts and in the circumstances of the case, the CIT(A) ought to have observed that the onus remains on the assessee to prove the cash deposits were from sale transactions, which assessee failed to do during assessment proceedings.
3. Whether on the facts and in the circumstances of the case, the CIT(A) ought to have called for the remand report on the evidences produced by the assessee during the course of appellate proceedings as the assessment was completed ex-parte and no information was furnished before the AO.
4. Whether on the facts and in the circumstances of the case, the CIT(A) was correct in observing the fact that the monies due from the Debtors is only Rs.4,78,610/- whereas the cash deposit quantified was Rs.1,45,44,776/- during assessment proceedings.
5. Whether on the facts and in the circumstances of the case, the Ld.CIT(A) was right in deleting the addition made as unexplained u/s 68 or 69A of the Act without appreciating the fact that the assessment was completed ex-party thus the question of rejection of books of accounts u/s 145(3) of the Act does not arise.
6. Any other grounds that may be urged at the time of hearing. 

2. Facts of the case, in brief, are that the assessee is an individual and proprietor of M/s. S.K. Agencies and S.K. Kirana & General Stores. The assessee filed his return of income for the A.Y 2017-18 on 30.10.2017 declaring total income of Rs.5,07,860/-. The case was selected for scrutiny under CASS to verify large value of cash deposits during demonetization period. During the course of assesment proceedings, the Assessing Officer noticed that the assessee has deposited cash of Rs.46,44,500/- in account bearing No.1001014001040 with Bhavanarishi Coop. Urban Bank Ltd and Rs.1,47,39,500/- in account bearing No.41011023929 with Dena Bank during the demonetization period from 09.11.2016 to 30.12.2016. The Assessing Officer

called upon the assessee to explain the source for the cash deposits with necessary evidences. The assessee neither appeared nor filed any details. Therefore, the Assessing Officer taking into account the relevant information available with the file including the details of cash deposits into Bank Accounts observed that there is abnormal increase in cash deposits during the period of demonetization period, compared to cash deposits for the remaining period in the financial year 2015-16. Therefore, worked out the abnormal cash deposit to Rs.1,45,44,776/- and made addition u/s 68/69A r.w.s. 115BBE of the I.T. Act, 1961.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee has filed a detailed written submission on the issue which has been extracted at para 6 on page 6 to 16 of the order of the learned CIT (A). The sum and substance of the argument of the assessee before the learned CIT (A) is that the source for cash deposits is out of regular sales income declared in the books of account and further, the allegation of the Assessing Officer is that the abnormal increase in deposits during demonetization period is incorrect when compared to cash sales, cash deposits during the demonetization period and before and after the demonetization period. The learned CIT (A) after considering the relevant submission of the assessee and also by following certain judicial precedents, including the decision of the Hon'ble Delhi High Court in the case of Kailash Jewellery House [2010 in ITA No. 613/2010, dated 9.4.2010 held that the appellant has duly substantiated its claim of source for cash deposits during the demonetization period with documentary

evidences. The learned CIT (A) further observed that the allegation of the Assessing Officer that there is abnormal increase in cash deposits during the demonetization period is factually incorrect going by the evidences filed by the assessee including the relevant bank statement where the pattern of cash deposits during demonetization and before demonetization period is almost similar. Further, the assessee has recorded sales in the books of account maintained for the year under consideration and as per the said books, there is no increase in sales for the above period. Therefore, opined that the Assessing Officer has made addition towards cash deposits into bank account during the demonetization period only on hypothetical basis by way of jugglery of figures and calculation without there being any substance in his finding that the assessee could not able to explain the source for cash deposits. Therefore, deleted the addition made by the Assessing Officer towards the excess cash deposits u/s 68/69A r.w.s. 115BBE of the I.T. Act, 1961.

4. Being aggrieved by the order of the learned CIT (A), the Revenue is in appeal before the Tribunal.

5. The learned DR Shri CH Rajeswara Reddy submitted that the assessee could not substantiate its claim with necessary evidences before the Assessing Officer which is evident from best judgment assessment order passed by the Assessing Officer. The learned CIT (A) by admitting certain additional evidences deleted the addition made by the Assessing Officer without allowing an opportunity to the Assessing Officer to examine the additional evidences filed by the assessee in violation of Rule 46A of the

Income Tax Rules, 1962. Further, the Assessing Officer has brought out the clear facts in his assessment order with regard to the pattern of cash deposits during the demonetization period and before the demonetization period which clearly shows abnormal increase in cash deposits during the demonetization period. The learned CIT (A) without appreciating the relevant facts simply deleted the addition made by the Assessing Officer .

6. The learned Counsel for the assessee, on the other hand, supporting the orders of the learned CIT (A) submitted that there is no merit in the argument of the learned DR that the appellant has filed additional evidences before the learned CIT (A), because the appellant has filed the very same books of account and relevant bank statements before the Assessing Officer and the learned CIT (A). The learned CIT (A) after considering the relevant books of account and bank statement had recorded a categorical finding that the addition made by the Assessing Officer towards cash deposits is on hypothetical basis without there being any finding as to how the cash deposits made during demonetization period is unexplained income of the assessee. Further, there is no finding from the Assessing Officer as to the nature of cash deposits, whether it is a specified bank notes (SBNs) or normal cash deposits. Therefore, in absence of necessary findings, it cannot be said that the assessee has made cash deposits into bank account in SBNs during the demonetization period. The learned CIT (A) after considering the relevant submission has rightly deleted the addition made by the Assessing Officer and the appellate order should be upheld.

7. We have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. The assessee is into the business of Kirana and General Stores has maintained regular books of account for his business and also got audited from the accountant in terms of section 44AB of the I.T. Act, 1961. The assessee has recorded sales from his business and claimed that the source for cash deposits is out of sales income which is recorded in the books of account of the assessee. The assessee has filed relevant bank statement maintained with the two banks. We have gone through the pattern of cash deposits for through out the year and find that there is no abnormal deviation in cash deposits during the demonetization period as alleged by the Assessing Officer. Since the source for cash deposits is out of sales income which is declared in the regular books of account maintained by the assessee, in our considered view, the Assessing Officer cannot bring cash deposits under the provisions of section 68/69A of the Act, because provisions of section 68/69A can be invoked where the nature and source of credit found in the books of account is not explained by the assessee. Since the assessee has explained the nature and source of credit found in bank account, in our considered view the Assessing Officer is erred in invoking the provisions of section 68/69A of the I.T. Act, 1961. Further, as contended by the learned Counsel for the assessee, there is no allegation from the Assessing Officer with regard to the nature of cash deposits during the demonetization period that the said cash deposits is in specified SBNs. Therefore, unless there is a finding from the Assessing Officer with regard to the nature of the cash deposits and found that it is in SBNs, then it cannot be held that

all cash deposits during the demonetization period is unexplained income of the assessee, more particularly, when the assessee is maintaining his books of account and got audited his books of account from an Accountant. Further, the analysis made by the Assessing Officer to allege that there is an abnormal increase in cash deposits is also not backed by relevant material. The Assessing Officer has computed the excess cash deposits by way of jugglery of figures which is contrary to the evidences filed by the assessee including the relevant bank statement. Therefore, we are of the considered opinion, that the Assessing Officer is erred in making addition towards the cash deposits u/s 68/69A and invoking the provisions of section 115BBE of the Act. The learned CIT (A) after considering the relevant facts has recorded a categorical finding that in absence of any finding as to the nature of cash deposits being SBNs and also analysis of books of account of the assessee to arrive at a conclusion that there is no abnormal increase in cash deposits during the demonetization period, the Assessing Officer cannot make addition u/s 68/69A of the I.T. Act, 1961. Thus, we are inclined to uphold the findings of the learned CIT (A) and dismiss the appeal filed by the Revenue.

8. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on 3<sup>rd</sup> July, 2024.

Sd/-

Sd/-

**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

**(MANJUNATHA, G.)**  
**ACCOUNTANT MEMBER**

Hyderabad, dated 3<sup>rd</sup> July, 2024

*Vinodan/sps*

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3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*