

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.618/Hyd/2020**
(निर्धारण वर्ष / Assessment Year: 201)

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| Dy. CIT Circle 1(1) Hyderabad | Vs. | Aarush Building Materials (P) Ltd, Hyderabad PAN:AAGCA9089G |
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Cross Objection No.8/Hyd/2022
(Arising out of ITA No.618/Hyd/2020)

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| (Appellant) | | (Respondent) |
| Aarush Building Materials (P) Ltd, Hyderabad PAN:AAGCA9089G | Vs. | Dy. CIT Circle 1(1) Hyderabad |
| (Appellant) | | (Respondent) |
| निर्धारिती द्वारा / Assessee by: | Shri Sashank Dundu, Advocate | |
| राजस्व द्वारा / Revenue by:: | Smt. Sheetal Sarin, DR | |
| सुनवाई की तारीख / Date of hearing: | 09/07/2024 | |
| घोषणा की तारीख / Pronouncement: | 11/07/2024 | |

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the Revenue and the Cross Objection filed by the assessee are directed against the order dated 28.08.2020 of the learned CIT (A)-1, Hyderabad, relating to

A.Y.2017-18. Since the facts are identical and issues are common, for the sake of convenience, the appeal filed by the Revenue and the cross objection filed by the assessee were heard together and are being disposed off by this common order. The grounds raised by the Revenue reads as under:

“1. The order of the learned CIT (A) is erroneous on facts as well as in law.

2. The learned CIT (A) erred in deleting the addition made u/s 69 with respect to cash deposits made during demonetization period simply basing on names & address of the parties, invoice copies, e-way bills filed.

3. On the facts and circumstances of the case, the learned CIT (A) erred in deleting the addition made with respect to cash deposits simply basing on ledger account copies by debtors ignoring the frequency of deposits made during demonetization period and non-furnishing of cash book and confirmations from debtors.”

2. Facts of the case, in brief, are that the assessee M/s. Aarushi Building Materials P Ltd is in the business of supply of building material as well as light weight bricks etc., The assessee company filed its return of income for the A.Y 2017-18 on 14.10.2017 admitting current year loss of Rs(-) 4,42,49,140/-. The case was selected for scrutiny and during the course of assesment proceedings, the Assessing Officer noticed that the assessee has deposited cash during demonetization period into bank account maintained with Corporation Bank, Nallakunta Branch, Hyderabad and Corporation Bank Jaggaiahpeta Branch all in total amounting to Rs.1,59,25,800/-. The assessee was called upon to explain the source for cash deposits in the above

bank accounts. In response, the assessee submitted that it has received cash from sundry debtors out of sales made before the date of demonetization period and to support his argument, the assessee has filed necessary ledger extracts of the parties from whom cash was received. The assessee further contended that the Income Tax Officer (Inv. Unit) II Hyderabad has conducted an inquiry and submitted his report on 20.03.2017 in respect of cash deposits during demonetization period where the assessee has submitted all details including the details of parties from whom cash was received and also explained that out of total cash deposits of Rs.1,59,25,800/-, sum of Rs.1,11,80,500/- is in Specified Bank Notes(SBNs) and the balance cash deposit is in regular currency. The Assessing Officer however, was not convinced with the explanation furnished by the assessee and according to the Assessing Officer, although the appellant claims to have received cash from sundry debtors towards sale of goods but failed to produce necessary evidences including confirmation from the parties to prove its case. The Assessing Officer further observed that on perusal of a few debtors account available on record, it is noticed that in almost all the accounts cash was received during the period from 1.11.2016 to 7.11.2016, whereas the sales were made many months before the actual realization of the money. Therefore, opined that the argument of the assessee that it has received cash from sundry debtors is improbable and thus rejected the arguments of the assessee and made addition towards cash deposits u/s 69 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 submitted that it is into the business of manufacturing and supply of building materials and deals mainly with unorganized sectors. The assessee further submitted that the sales made to various parties from whom cash was collected is supported by necessary sale bills, e-way bills etc., The Assessing Officer never disputed the fact that the appellant has received cash against the sales, however, rejected the argument of the assessee only on the ground that the cash was received during demonetization period but the fact remains that the inquiry conducted by the ITO (Inv) Unit-II clearly shows that the assessee has made total cash deposits of Rs.2,53,04,300/- into all his bank accounts for the entire year and out of which Rs.1,11,80,500/- is in SBNs.

4. The learned CIT (A) after considering the submissions of the assessee and also taken note of the reasons given by the Assessing Officer to make addition towards cash deposits u/s 69 of the I.T. Act, 1961 held that the nature of business of the assessee necessitates contractors, suppliers and labourers which were likely to be made in cash given the location of the factory and the nature of the business. Further, the assessee has filed all evidences including the relevant invoice copies, e-way bills of commercial tax department and ledger copies during the year 2017 itself to the then Assessing Officer. The assessee had also

furnished very same details before the Income Tax Officer (Inv.). From the details furnished by the assessee, it is clear that the assessee has received cash from sundry debtors towards sales made before the date of demonetization and the same is supported by necessary evidences. When the assessee has submitted all the details, it is incumbent upon on the Assessing Officer to verify the claim of the assessee either by issuance of summons u/s 131 or u/s 133(6) of the I.T. Act, 1961. The Assessing Officer having accepted the details furnished by the assessee is erred in making addition towards cash deposits u/s 69 of the Act only for the reason that the said cash deposits were made during demonetization period. Thus, directed the Assessing Officer to delete the addition made towards cash deposits u/s 69 of the I.T. Act, 1961.

5. The learned DR, Smt. Sheetal Sarin, Addl/Jt. CIT, submitted that the learned CIT (A) erred in deleting the addition made u/s 69A of the I.T. Act, 1961 with respect to cash deposits made during the demonetization period simply basing on the names and addresses of the parties, invoice copy, e-way bills. The learned DR further referring to the assessment order and reports submitted by the Income Tax Officer (Inv.) Hyderabad submitted that the assessee has not filed any details before the Assessing Officer except the list of parties from whom the cash was received. Although, the assessee claims to have submitted all the details before the ITO (Inv.) but on a perusal of the report

submitted by the Income Tax Officer (Inv) it is very clear that the assessee has filed a statement of persons from whom cash was received. Further, the statement recorded from the Director of the Appellant Company where he has clearly admitted that no details has been filed to substantiate the argument and further agreed to submit the details. In case the relevant details are not submitted, he had agreed to offer the cash deposits in SBNs under PMKGY 2016. From the above it is very clear, that the assessee was not able to explain the source of cash deposits during demonetization period but the learned CIT (A) deleted the addition made by the Assessing Officer, simply based on certain details filed by the assessee which is incorrect.

6. The learned Counsel for the assessee, on the other hand, supporting the orders of the learned CIT (A) submitted that going by the nature of the business of the assessee, there is no dispute with regard to the claim of cash deposits from debtors. The assessee being in the business of supply of building material has dealt with unorganized sector which is prone to cash transactions. The assessee has filed all evidences including ledger copies of parties, e-way bills and relevant sales bills to prove that the sales were accounted in the books of account and also cash has been received against the sales. The assessee has also filed relevant bank statements. The learned CIT (A) after considering the details filed by the assessee has rightly deleted the addition

made by the Assessing Officer and the appellate order should be upheld.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The assessee is a company is required to maintain the books of account for its business. In fact, there is no dispute on this aspect from the Assessing Officer. The assessee claims that the source for cash deposits is out of cash received from sundry debtors and to this effect, the assessee has furnished the relevant ledger account copies of the parties from whom cash was received. In fact, the Assessing Officer is not disputed the fact that the assessee has filed ledger account copies of sundry debtors. From the ledger account filed by the assessee, the Assessing Officer observed that the assessee has made sales few months before the demonetization whereas claims to have received cash from 1.11.2016 to 7.11.2016. In other words, the Assessing Officer accepted the fact that the assessee has made cash sales to the above parties, but made additions towards cash deposits only on the ground that the cash was received only during demonetization period and the claim of the assessee is against the principles of human probabilities. Otherwise, the Assessing Officer never disputed the fact that the assessee is maintaining a regular books of account and further cash received from various parties is accounted in the books of account of the assessee before the date of demonetization. Once the assessee claims that the source for

cash deposits is out of realization of sale proceeds from sundry debtors, then the same cannot be brought to tax under the provisions of section 69 of the I.T. Act, 1961 for the simple reason that the provisions of section 69 is applicable in a situation where the assessee has made investment which are not recorded in the books of account, if any maintained by him for any source of income and the assessee offers no explanation of the nature and source of investment or the explanation offered by the assessee is not up to the satisfaction of the Assessing Officer. In the present case, the cash received from sundry debtors has been recorded in the books of account of the assessee and further the assessee has explained the nature and source of investment by filing necessary evidences including corresponding sale invoice, e-way bill and ledger account copies of the parties. From the details furnished by the assessee, it is undoubtedly clear that the source for cash deposits into the bank account during demonetization period is explained out of known source of income.

8. We further noted that the learned CIT (A) had recorded a categorical finding that similar cash deposits were made even before the demonetization period and after demonetization period. From the analysis of the cash deposits during and after demonetization period, there is no abnormal increase or deviation in cash deposits during the demonetization period. Therefore, we are of the considered view that when the assessee has recorded cash receipts in the books of account out of realization from

sundry debtors before the date of demonetization, then the Assessing Officer ought not to have made the addition towards cash deposits u/s 69 of the I.T. Act, 1961 only based on the theory of human probabilities, because when the evidences filed by the assessee are glaring at us, the theory of human probabilities alone will not be sufficient to take an adverse view on the assessee. Since the assessee has justified the source for cash deposits during the demonetization period with necessary evidences, in our considered view, there is no error in the reasons given by the learned CIT (A) to delete the addition made u/s 69 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.

C.O No.8/Hyd/2022

9. The assessee has filed cross objection with a delay of 200 days and not offered any explanation for the delay in filing of the Cross Objection. Although the appellant claims that the Counsel who representing the case before the authorities was under medical treatment during the period and because of this, he could not file cross objection in time, but in our considered view, the reasons given by the appellant is not sufficient and reasonable to condone the delay. Thus, the cross objection filed by the assessee is dismissed as unadmitted.

10. In the result, appeal filed by the Revenue as well as the cross objection filed by the assessee are dismissed.

Order pronounced in the Open Court on 9th July, 2024.

Sd/-

Sd/-

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| (K. NARASIMHA CHARY) JUDICIAL MEMBER | (MANJUNATHA, G.) ACCOUNTANT MEMBER |
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Hyderabad, dated 9th July, 2024

Vinodan/sps

Copy to:

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|------|--|
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| 3 | Pr. CIT -1, Hyderabad |
| 4 | DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order