

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 1135/Bang/2024
Assessment Year : 2017-18

Shri Eshwarappa Odegoudar, Eswar Fertilizers, Municipal Complex No. 3 PB Road, Shikaripura, Shimoga. Karnataka – 577 427. PAN: AAEP09965A	Vs.	The Assistant Commissioner of Income Tax, Circle – 1, Shimoga.
APPELLANT		RESPONDENT

Assessee by	:	Shri A.R. Vivek, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate, Standing Counsel for Dept.

Date of Hearing	:	10-07-2024
Date of Pronouncement	:	24-07-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of the order dated 23.04.2024 passed by NFAC, Delhi for A.Y. 2017-18.

2. Brief facts of the case are as under:

2.1 Assessee is retail trader in fertilizer and pesticides customers were agriculturist and are all cash sales same polices are in operation from the date of inception and the commodity dealt with are seasonal one Sales happens when there is requirement to farmers and agriculturists.

2.2 During the period of 01.11.2016 to 09.11.2016 cash sales of pesticides underwent to a tune of Rs.17,13,150/- all such cash receipts were in legal tendered bank notes.

2.3 The assessee submitted that, the sale of pesticides were seasonal one and said commodity requirement will taken place due to variation of seasons and adopted average method of daily cash sales and computed Rs.11,44,430/- as un explained cash deposits us 68 of IT Act. Further during the demonetization period cash deposited to bank in SBN is only Rs.2,50,000/- which is out of opening cash balance which is duly accounted in Books of Account.

2.4 The Ld.AO passed assessment order by adding the cash deposits to bank account an unexplained.

2.5 Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

The Ld.CIT(A) also without conducting any verification upheld the order of Ld.AO.

2.6 Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before this *Tribunal*.

3. The Ld.AR before this *Tribunal* placed on record certificate issued by bankers regarding the opening cash balance. He further submitted that on 19/07/2016 cash sales made is Rs.1,08,260/- whereas on 09/11/2016 cash sales is Rs.6,13,090/-. It is submitted that all sales are accounted after raising of sale invoice. The Ld.AR submitted that during demonetization period, cash deposited was Rs.20,90,000/- out of which demonetised SBN was Rs.2,50,000/- rest of Rs.18,40,000/- were legal tendered Bank notes received from customers towards cash sales. Hence it is prayed that the addition cannot be made as undisclosed cash deposits u/s. 68 of IT Act.

4. On the contrary, the Ld.DR relied on the orders passed by authorities below.

We have perused submissions advanced by both sides in the light of records placed before us.

5. We note that the Ld.AO/CIT(A) did not consider relevant CBDT circulars that was issued for the purposes of verifying demonetized cash deposited during the year under consideration. In the interest of justice, we remit this issue to the Ld.AO to verify the sales made by the assessee that is deposited into the bank accounts during the year under consideration in

accordance with the following circulars whichever is applicable to the facts of the case.

- a) The 1st instruction was issued on 21/02/2017 by instruction number 03/2017.
- b) The 2nd instruction was issued on 03/03/2017 instruction number 4/2017.
- c) The 3rd instruction was in the form of a circular dated 15/11/2017 in F.No. 225/363/2017-ITA.II and the last one dated 09/08/2019 in F.no.225/145/2019-ITA.II.

6. The assessee is also directed to furnish all relevant evidences in support of its claim. The Ld.AO shall verify the documents and consider the claim in accordance with law.

Needless to say that proper opportunity of being heard must be granted to assessee in accordance with law.

Accordingly, the grounds raised by the assessee stands partly allowed.

In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 24th July, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 24th July, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore