

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**Shri Sonjoy Sarma, Judicial Member  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 583/Kol/2024  
Assessment Year: 2017-18**

**Sanjay Kumar Gupta,  
Laxmi Iron Stores, Burdwan Road,  
Siliguri - 734005  
[PAN: ACYPG3181G] .....Appellant**

**vs.**

**Income Tax Officer  
Ward 2(3), Siliguri,  
Aayakar Bhawan,  
Paribahan Nagar, Matigara,  
Siliguri - 734010 ..... Respondent**

**Appearances by:**

Assessee represented by : Shri Sujit Basu & Shri Rajib Mukherjee, Advocate  
Department represented by : Shri Raman Garg, Addl. CIT, DR

Date of concluding the hearing : June 26, 2024

Date of pronouncing the order : July 26, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the National Faceless Appeal Centre (NFAC), Delhi, dated 20.02.2024 arising out of Assessment Order dated 26.12.2019, passed under Section 143(3) of the Act.

2. The assessee has raised the following grounds of appeal:

*"1. For that on the facts of the case, the order passed by the Ld. Commissioner of Income Tax (Appeals) on 28.12.2023 is completely arbitrary, unjustified and illegal.*

*2. For that on the facts of the case, the Ld. Commissioner of Income Tax (Appeals) was wrong in confirming the addition of Rs.15,19,500/- made by the Ld. AO being cash deposited during demonetization period despite of furnishing due explanations and cash flow statement before the Ld. AO and also before the Ld. Commissioner of Income Tax (Appeals) showing that the opening cash in hand of the appellant as on 8.11.2016 was for Rs. 18,53,843/-.*

*3. For that the Ld. Commissioner of Income Tax (Appeals) has failed to appreciate that the Ld. AO did not found any mistake or falsity in the cash flow statement submitted before him by the appellant during assessment proceedings showing with due explanations that the opening cash in hand of the appellant as on 8.11.2016 was for Rs.18,53,843/-.*

*4. For that on the facts of the case, the Ld. Commissioner of Income Tax (Appeals) has failed to appreciate the fact that the Ld. AO could not bring any contrary evidence on record that the appellant had not deposited a sum of Rs.15,19,500/- during demonetization period out of his cash in hand of Rs. 18,53,843/- as on 8.11.2016.*

*5. For that on the facts of the case, the Ld. Commissioner of Income Tax (Appeals) has failed to appreciate the facts on record that the Ld. AO had disbelieved the cash statement of the appellant simply out of his own suspicion, surmises and conjectures and not by bringing any contrary fact or evidence on record to disprove the claim of the appellant.*

*6. For that on the facts of the case, the Ld. Commissioner of Income Tax (Appeals) was wrong in not appreciating the fact that the appellant had duly discharged his initial burden in proving that he had a cash balance of Rs.18,53,843/- as on 8.11.2016. Before rejecting the explanation of the appellant, the Ld. AO could not show any inherent weakness therein and also could not rebut the same by putting the appellant some information or evidence which the Ld. AO had in his possession. The Ld. AO had merely rejected the reasonable and good explanation of the appellant and had converted the good proof furnished by the appellant into no proof just somehow tax the appellant.”*

3. Brief facts of the case are that the assessee is an individual, filed its return of income for the Assessment Year 2017-18 declaring total income of Rs. 4,86,540/-. The case was selected for scrutiny through the CASS (Computer-Assisted Scrutiny Selection) system. Notices were issued under sections 143(2) and 143(1) of the Act. In response to the notices, assessee provided details of

cash deposits made during the demonetization period, as well as a statement of cash flow and copies of bank statements. Deposits included Rs. 14,50,000/- in Punjab National Bank and Rs.1,19,000/- in HDFC Bank, all made using Specified Bank Notes (SBNs) during the period from 10.11.2016 to 22.12. 2016. The assessee claimed that the deposits were sourced from cash on hand and withdrawals from the bank, as shown in the cash flow statement for the financial year 2016-17. The assessee reported having Rs. 26,39,843/- opening cash in hand and Rs. 22,74,000/- as cash withdrawn from a firm which had seen to be regularly withdrawn in cash. Similarly, Rs. 9,00,000/ had been withdrawn from bank on 12.09.2016 and shown to have been deposited on 24.10.2016 in bank and again Rs. 7,50,000/- had been withdrawn on 31.10.2016 in two parts. The Ld. AO questioned the high cash deposits during the demonetization period, especially given the existing cash on hand and relatively low personal expenses. Accordingly, Ld. AO considered that the cash deposits could not be satisfactorily explained by the assessee and those were not appropriately reflected in the return of income of assessee and added to the income of the assessee amounting to Rs 15,19,500/- under section 69A read with section 115BBE of the Act.

4. Feeling aggrieved by the order of the Ld. Assessing Officer, the assessee went in appeal before the Ld. CIT (A) where appeal of the assessee was dismissed.

5. Dissatisfied with the above, the assessee is in appeal before this Tribunal raising multiple grounds. However, main contention of the assessee is that assessee has clearly demonstrate the fact before the Ld. AO that assessee has sufficient cash in hand specified bank note by showing the cash flow statement and bank statement therefore such addition made by Ld. AO, uncalled for and liable to be deleted. He further stated that from the cash flow statement. It is noted that Rs. 9,00,000/- was withdrawn from bank on 12.09.2016, by assessee and deposited on 24.10.2016, thereafter, an additional Rs. 7,50,000/- was withdrawn in two parts on 31.10.2016, while the assessee already had cash in hand of Rs. 6,39,843/-. The assessee reported personal expenses of Rs. 80,000/- only, leading to a cumulative cash in hand of Rs. 18,53,843. Therefore, Ld. AO

cannot question the high cash deposits made during the demonetization period, especially given case assessee has the existing cash on hand during the period.

6. On the other hand, the Ld. DR supported the order of the authorities below.

7. We have heard the rival submission and perused the material available on record. We find that the assessee has proved the fact by showing cash flow statement of pre demonetization cash from 01.04.2016 to 07.11.2016 and post demonetization cash period from 8.11.2016 and 31.03.2017 and we find that the assessee had its own funds which were deposited during the period of demonetization, therefore, we set aside the impugned order passed by the Ld. CIT(A) with a direction to the Ld. AO to delete the addition made in the hands of the assessee. In terms of the above, the appeal of the assessee is allowed.

8. In the result, the appeal of the assessee is allowed.

***Kolkata, the 26<sup>th</sup> July, 2024.***

***Sd/-***  
**[Rakesh Mishra]**  
**Accountant Member**

***Sd/-***  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 26.07.2024.

*Alindra, PS*

*Copy of the order forwarded to:*

- 1 Sanjay Kumar Gupta
2. Income Tax Officer, Ward 2(3), Siliguri
3. CIT(A)-
4. CIT-
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches