

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.229/Ind/2024
(Assessment Year: 2017-18)

Astra IDL Limited, 18/2, Lasudia Mori, Dewas Naka, Indore	Vs.	ITO 1(1), Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AAACZ2814J		
Assessee by	Shri Manoj Fadnis, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	01.08.2024	
Date of Pronouncement	06.08.2024	

ORDER

This appeal by the assessee is directed against the order dated 25.01.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centers,(NFAC), Delhi for A.Y.2017-18 which is arising from the assessment order u/s 144 of the Act dated 28.12.2019.

2. Assessee has raised following grounds of appeal:

"Ground No. 1 That the Ld. CIT(A) erred in confirming addition of Rs. 28,72,000/- on account of amount deposited in bank account during demonetization period.

Ground No. 2 That the Id. CIT(A) erred in confirming the Id. AO invoking the provision of section 69A of Income Tax Act, 1961.

Ground No. 3 That the addition confirmed by Id. CIT(A) is bad in law and may be deleted.

Ground No. 4 That the assessee craves leave to add, amend, modify, rescind, supplement or alter the grounds taken herein above either before or at the time of hearing of this appeal."

3. Facts in brief are that the assessee is a limited company engaged in business. Income Tax Return for Assessment Year 2017-18 e-filed on 28.11.2017 declaring NIL income. For the reason high value receipt of cash shown from third parties in response data & cash deposits during demonetization period, the case selected for scrutiny through CASS followed by validly issuance of notices u/s 143(2) and 142(1) of the Act. During the course of assessment proceedings assessee furnished audited financial statements. Ld. A.O on verification of the bank accounts of the assessee company held with Axis Bank and State Bank of India observed that total sum of Rs.28,72,000/- has been deposited during the demonetization period i.e. from 15.11.2016 to

1.12.2016. It was claimed by the assessee that the said sum was part of the amount received from outstanding sundry debtors. Ld. A.O was of a view that the sum is a colourable transaction merely showing the amount received from outstanding debtors and the same being not supported by complete address of the sundry debtors and that the assessee has converted its undisclosed income in the garb of outstanding debtors which are not recoverable. Ld. A.O proceeded to make addition of Rs.28,72,000/- as unexplained income u/s 69 r.w.s. 115BBE of the Act. Dis satisfied with the order of Ld. A.O, assessee preferred appeal before Ld. CIT(A) and furnished various details including audited statements for F.Y. 2015-16 and 2016-17 along with list of debtors from which the alleged sum was received. However Ld. CIT(A) did not allowed the application of the assessee under Rule 46A and rejected the same only for not submitting these details before Ld. A.O. Ld. CIT(A) further observed that the assessee failed to furnish the full address of the debtors and also failed to explain why the assessee received the outstanding amount from debtors in cash rather than through cheque. Ld. CIT(A) though gave an opportunity to the assessee via

video conferencing but the assessee failed to avail this opportunity.

Ld. CIT(A) accordingly dismissed the appeal of the assessee.

3.1 Aggrieved assessee is now in appeal before this Tribunal.

3.2 Ld. Counsel for the assessee referred to the paper book Vol.1 containing 90 pages and Vol.II containing 139 pages in total 369 pages and mentioned that the assessee company is regularly maintaining books of accounts and audited statements are prepared. A considerable amount was outstanding as sundry debtors in the books as on 31.3.2016. He also referred to the details of sundry debtors as on 31.3.2015, 31.3.2016 and 31.3.2017 placed at page 261 to 283 in order to demonstrate that the assessee company is trying to recover the amount from its debtors. He also submitted that the debtors are mostly small parties engaged in kirana and medical business and the sum received from these debtors during the year from each party per day below Rs.20,000/-. He also submitted that these being genuine transactions through which the assessee has received the cash and the same were utilized for depositing the same in the bank account.

3.3 On the other hand Ld. Departmental Representative strongly stated that the details of sundry debtors with address were never

filed before the lower authorities and there was no mechanism available with the A.O to verify the genuineness of the outstanding debtors as the details of address were not furnished . He further submitted that the matter needs to be restored to the file of the A.O with the direction to carry out verification of these sundry debtors for which notices can be sent for verifying the genuineness of the transaction of receiving the outstanding amount from old sundry debtors.

4. I have heard rival submissions and perused the records placed before me. The only effective issue raised in the grounds of appeal is whether Ld. CIT(A) erred in confirming the addition made by the Ld. A.O towards unexplained cash deposit in the bank account of the assessee company held with Axis Bank and State Bank of India for a total sum of Rs.28,72,000/- during the demonetization period. The claim of the assessee is that there were outstanding debtors and the assessee was making all necessary efforts to recover the outstanding receivables. The alleged sum is the amount received from outstanding debtors which are spread over various villages and the individual amount recovered is less than Rs.20,000/-. Ld. Departmental Representative has submitted that the assessee did

not appear before the Ld. A.O and Ld. CIT(A) has not admitted the additional evidence and therefore the matter needs to be restored to the file of A.O who shall thereafter carry out investigation and issue notices to each sundry debtors so as to confirm that they actually given the amount to the company or whether the assessee has converted its unaccounted income in the grab of outstanding debtors.

4.1 I observe that the assessee is a limited company incorporated on 22.6.2006. It has been regularly carrying out the business activity. It suffered huge loss in the preceding A.Y i.e. 2016-17 at Rs.7,31,45,339 and the book loss is Rs.7,39,85,210/-. So far as outstanding sundry debtors balance is concerned I note that on 31.3.2016 it stood at Rs.4,93,88,972/-. Further from perusal of audited balance sheet for FY 2014-15 I observe that the outstanding trade receivables as on 31.3.2015 were Rs.5,09,51,300/- and the turnover of the company for F.Y 2014-15 was approximately to Rs.11.55 crores. But the turnover of the company came down drastically during F.Y 2015-16 and F.Y 2016-17. However it remains an admitted fact that the assessee which is a limited company is regularly maintaining its books of accounts

which are duly audited and the audited financial statements are regularly uploaded on the web site of Ministry of Corporate Affairs. The assessee company rather no one was not aware that any such demonetization scheme will be announced and it was regularly making efforts to recover the funds outstanding from the outstanding debtors. The list of sundry debtors as on 31.3.2015, 31.3.2016 and 31.3.2017 have been filed from page 261 to 283 of the paper book Vol. II and there are approximately 1600 names of which are mainly kirana and medical stores spread over various villages and towns. List of these debtors have been compiled on the basis of the books of accounts regularly maintained by the assessee. Further details has been filed for F.Y 2015-16 and 2016-17 showing that there has been regular efforts of the assessee company to recover its outstanding debtors.

4.2 I also note that the recovery from the sundry debtors during the year are from various parties and amount of each party on a particular date is not exceeding Rs.20,000/- and therefore there was no requirement to receive them by cheque. The list of amount received from all the debtors during the demonetization period are placed at page 223 to 229 of the paper book. All these details

including audited financial statement for preceding two financial years and the figure of outstanding receivables shown therein proves that the outstanding debtors were part of the audited financial statement and have duly passed through the revenue authorities during the preceding years.

4.3 I find that the alleged sum of cash deposit is purely from the recovery from sundry debtors and is well explained from the details filed by the assessee before me. It would be rather impractical and just will add to prolonged litigation if the file is restored to the A.O for sending notices to so many parties in huge numbers, located across various villages and there is a rare possibility that these parties would give any reply because some of them would be either not existing and some may not to give any reply since there is no more business connection with the assessee company.

4.4 I therefore find merit in the submission made by the Ld. Counsel for the assessee and the details submitted before me and I am satisfied with the source of alleged cash deposit during the demonetization period is the amount recovered from the outstanding debtors duly reflected in audited financial statements of preceding years filed with the Revenue authorities much prior to

announcement of demonetization scheme. The finding of Ld. CIT(A) is set aside and the addition of Rs.28,72,000/- made for alleged unexplained cash deposit is deleted. Ground No.1 to 3 are allowed. Ground No.4 is general in nature which needs no adjudication.

5. In the result appeal of the assessee is allowed.

Order pronounced in the open court on 06.08.2024.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, _06.08.2024

Dev/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore