

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य एवं  
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM  
AND HON'BLE SHRI MANU KUMAR GIRI, JM**

आयकर अपील सं./ ITA No.836/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2017 -2018)

Shenbagam Hospitals Private Limited,  
15A, North Cross,  
3<sup>rd</sup> Street,  
Anna Nagar,  
**Madurai 625 020.**

**Vs.** The Assistant Commissioner of  
Income Tax,  
Corporate Circle 2,  
Madurai.

**[PAN: AAHCS 1403M]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri P.M. Kathir, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Ms Gouthami Manivasagam, IRS, JCIT

सुनवाई की तारीख/Date of Hearing

: 12.08.2024

घोषणा की तारीख /Date of Pronouncement

: 14.08.2024

**आदेश / O R D E R**

**PER MANU KUMAR GIRI (Judicial Member)**

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.ITBA/NFAC/S/250/2023-24/1060281525 (1) dated 30.01.2024. The assessment was framed by the Assistant Commissioner of Income Tax, Corporate Circle 2, Madurai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 06.12.2019.

2. Brief facts of the case are that the assessee is an individual and filed its e-Return of Income on 07.11.2017 declaring total income of Rs.26,26,990/- and deemed income of Rs. 18,86,370/- u/s. 115JB of the IT Act. The case was selected for complete scrutiny under CASS. Therefore, notice u/s. 143(2) of the Act was issued. Subsequently, notices u/s. 142(1) & u/s.143(3) of the act were issued from time to time. In response, the appellant submitted his reply. During the assessment year the appellant had cash deposited in Bank account during the demonetization period. The appellant submitted that the cash deposit was out of routine regular daily collection of hospital treatment receipts and diet kitchen receipts from various patients. However, the AO did not satisfy with the submission of the appellant. Therefore, the AO made an addition Rs.20,54,610/- of cash deposit of bank accounts u/s. 68 of the IT Act. Thus, the assessment was completed by Assessing Officer u/s. 143(3) by assessing the total income at Rs.46,81,600/-. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

3. Before the Id. CIT(A) the assessee submitted that books of accounts is duly audited under sec. 44AB of the Act. The assessee submitted that it is not disputed by the learned Assessing Officer that the said SBNs were the fee receipts of the hospital from the patients. The learned AO is not dissatisfied with the explanation for source provided by the assessee. When the source of income stands satisfactorily explained, there is no recourse to section 68 of the Act. Hospital cash book and diet kitchen (a unit of the Hospital) are submitted to show evidence for source of cash. In many judicial decisions it has been held by various Courts and

ITAT benches that SBNs deposited in banks by assessee during the demonetization period cannot be added as income under sec. 68, if the sales and collection during the period and books of accounts thereof, are found to be in order. The assessee referred the following case laws:-

01. *'Purani Hospital Supplies Pvt Ltd vs DCIT in ITA No.489/Chny/2022, Chennai Benches.*
02. *J.R. Rice India (P) Ltd vs ACIT in ITA No. 2852/Del/2022, Delhi Benches.*
03. *ACIT vs Hirapanna Jewellers in ITA No. 253 of 2020 96 ITR(T) 24 Vizag Bench'.*

The Id. CIT (A) observed that it is an admitted fact the cash balance as on 8/11/2016 was only Rs.2,94,890/- whereas the cash deposits after the said date, during the demonetization period were Rs.38,54,885/-. AO's point is that the appellant is a private nursing home and is not covered in any of the exceptions in the demonetization period that allowed transactions in SBNs. The Id.CIT(A) observed that the appellant's only argument for this is that the press has reported that the services exempted would encompass the private sector. For this, the appellant has shown the newspaper cuttings. However, it is seen that even in the newspaper clippings, the services mentioned are petrol pumps, pharmacies and utility services, but there is no reference to the private nursing homes, which is the appellant's business. Thus, the situation is that the appellant cannot take cash in form of SBNs to provide the hospital services during the said demonetization period. Further, the Id.CIT(A) observed that the cash is also shown as taken for special diet kitchen services which is not medical services and not covered at all by the RBI guidelines. Therefore, when the appellant is not allowed to conduct business

transactions in the specified bank notes, to state that the cash was generated from such business defies logic and legality. Further, the appellant apart from producing the cash book and financial statements has not provided any proof of the entries therein. Thus, the Id.CIT(A) observed that mere existence and audit of books of accounts does not mean the same are to be accepted as they are. The Id.CIT(A) confirmed the action of the Id. Assessing Officer. Aggrieved, assessee is in appeal before the Tribunal.

4. Before us, the Id.Counsel for the assessee submitted case law paper book (Pages 1-59) and paper book containing 1-46 pages and referred details of cash deposit during the period 08.11.2016 to 30.12.2016 (pg 29); details of cash deposit in each Bank account for FY 2016-17 (PAN and Address of the person who made deposits) (pg 30-31); details of sales during FY 2015-16 (pg 32); details of sales during FY 2016-17 (pg 33); list of patients from whom cash was received (pg 38-42) which contains name of persons, address, amount received, date of admission and date of discharge etc.; written submissions alongwith paper cuttings (Economic Times) which shows Government and Private Hospitals (pg 34-37). The Id.Counsel submitted that during the demonetization period of 10.11.2016 to 30.12.2016 a sum of Rs.38,54,885/- was deposited in cash in Tamilnadu bank. The assessee deposited Rs.23,49,500/- in SBN (denominations of Rs.500 and Rs.1000) out of Rs.38,54,885/-. Aforesaid SBN deposit of Rs.23,49,500/- was made partly out of the cash balance of Rs.2,94,888/- on hand on 08.11.2016 at the time of demonetization and balance of Rs.20,54,613/- was made out of in-patient collections made during

the demonetization period. He further submitted that Rs.38,54,885/- is already duly offered as income under the head Hospital income. To bolster his argument, Id.Counsel also relied upon the co-ordinate bench orders in the case of *M/s Purani Hospital Supplies Pvt. Ltd. Vs DCIT (ITA No.489/Chny/2022) dated 31.05.2023* and *Raju Dinesh Kumar vs. DCIT [2024] 159 taxmann.com 1598 (Chennai-Trib.)*.

5. Per contra, the Id.DR-JCIT vehemently supported the orders of lower authorities. The Ld.DR, JCIT, supporting the order of the CIT(A) submitted that the assessee could not justify as to how it can accept specified bank notes after 09.11.2016 with reference to government notification for withdrawal of bank notes issued by Government of India and RBI. Further, the Ld.DR submitted that the notification issued by the RBI and Government of India, specifically allowed certain categories to accept specified bank notes up to 31.12.2016. The assessee does not come under any of the categories permitted by the Government to accept specified bank notes. Therefore, in the above factual matrix, it is clear that the assessee could not explain source for cash deposit made during demonetization period. Therefore, the Assessing Officer and CIT(A) has rightly made additions.

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The facts borne out from records indicates that the assessee is running a critical 75-bed hospital in the city saving life, surgical and diagnostics goods, which is considered to be essential goods. The assessee has deposited a sum of Rs.38,54,885/- during the demonetization period

of 10.11.2016 to 30.12.2016. The assessee has deposited Rs.23,49,500/- in SBN (denominations of Rs.500 and Rs.1000) out of Rs.38,54,885/-. The aforesaid SBN deposit of Rs.23,49,500/- in Bank was made partly out of the cash balance of Rs.2,94,888/- on hand on 08.11.2016 at the time of demonetization and balance of Rs.20,54,613/- was made out of in-patient collections made during the demonetization period. The assessee claims that source for cash deposit is out of realization of cash sales made includes before and after the demonetization period. The assessee has filed necessary details **(as mentioned in para 4 above)** including list of parties from whom cash collected after demonetization period and deposited into bank account. The Assessing Officer is not disputing all these claims of the assessee including evidence filed in support of justification for source for cash deposit. But, the Assessing Officer has made additions towards cash deposit in specified bank notes after demonetization period only for the reason that the assessee is not eligible to transact or receive any specified bank notes after demonetization as per notification/GO issued by RBI and Government of India. The Assessing Officer, had discussed the issue with reference to GO issued by RBI and Government of India and concluded that since the assessee has accepted demonetized currency in violation of circular/notification issued by the Government of India, the source explained by the assessee cannot be accepted. In other words, the Assessing Officer never disputed fact that the assessee has made sales in cash before demonetization period and also realized cash from debtors against cash sales made before demonetization period.

7. We have also gone through the orders of the co-ordinate Bench wherein in similar circumstances the co-ordinate Bench in the case of *M/s Purani Hospital Supplies Pvt. Ltd. Vs DCIT (ITA No.489/Chny/2022) dated 31.05.2023* held as under:

*8. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The facts borne out from records indicates that the assessee is in the business of distribution of pharmaceutical goods, surgical and diagnostics goods, which is considered to be essential goods. The assessee has deposited a sum of Rs. 1,82,37,000/- during demonetization period in specified bank notes to various bank accounts. The assessee claims that source for cash deposit is out of realization of cash sales made before demonetization period. The assessee has filed necessary details including copies of sales bills made in cash before demonetization period and also list of parties from whom cash collected after demonetization period and deposited into bank account. The assessee had also filed necessary details of information furnished to department immediately after demonetization period towards cash collected from third party in response data. The Assessing Officer is not disputing all these claims of the assessee including evidence filed in support of justification for source for cash deposit. But, the Assessing Officer has made additions towards cash deposit in specified bank notes after demonetization period only for the reason that the assessee is not eligible to transact or receive any specified bank notes after demonetization as per notification/GO issued by RBI and Government of India. The Assessing Officer, had discussed the issue with reference to GO issued by RBI and Government of India and concluded that since the assessee has accepted demonetized currency in violation of circular/notification issued by the Government of India, the source explained by the assessee cannot be accepted. In other words, the Assessing Officer never disputed fact that the assessee has made sales in cash before demonetization period and also realized cash from debtors against cash sales made before demonetization period. Therefore, to decide the issue whether the assessee can accept specified bank notes even after it was banned for legal tender after 09th November, 2016 and further, the same can be added u/s. 69 of the Act as unexplained investment and also can be taxed u/s. 115BBE of the Act, it is*

*necessary to examine the case in light of business model of the assessee, and evidence filed during the course of assessment proceedings.*

*9. The provisions of section 69 of the Act, deals with unexplained investment, where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of accounts, if any, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by the assessee is not in the opinion of the Assessing Officer, satisfactory, then the value of the investments may be deemed to be the income of the assessee of such financial year. In order to invoke provisions of section 69 of the Act, two conditions must be satisfied. First and foremost condition is there should be an investment and second condition is the assessee could not explain source for said investment. In this case, if you go through evidence filed by the assessee including comparative details of amount collected out of sales for financial year 2015-16 & 2016-17 and details of cash deposit into bank for above financial years, we find that there is no abnormal deviations from its normal course of business. Further, on verification of analysis of cash sales and cash deposits to bank account there is no deviation of cash sales and cash deposits when compared to earlier financial year and demonetization period. Further, the assessee is dealing in essential commodities like medicines, surgical and diagnostics equipment through medical shops, hospital, doctors etc. The agents of the assessee come and collect cash from parties and directly deposit to bank account of the assessee. It is also not in dispute, in this line of business the majority of sales is in cash, because doctors, hospitals and medical shops mainly deals with cash. Therefore, from the business model of the assessee and trade practice there is no doubt of what so ever with regard to the explanation offered by the assessee that it has collected cash from debtors towards sales made in cash before demonetization period. Further, the appellant has also regularly availing GST/VAT returns and there is also being no change or deviation in the VAT returns field for the earlier months i.e., before the announcement of demonetization. The assessee had also declared sales made in cash in their books of accounts and filed necessary return of income and paid taxes on said income. The appellant has also made cash deposits regularly before and during that period including the notes which are not banned and therefore, it is not a case of amount of deposit in specified bank notes has come out of undisclosed source or under any circumstances only to change the colour of the money. From the details filed by the assessee, it is evident that*

*during the month of November and December, the assessee has made almost more than 5 crores cash deposit which includes various demonetized currency and regular notes. Further, the Assessing Officer has accepted fact that out of total cash deposits, only a sum of Rs. 1,82,37,000/- is in specified bank notes. From the above, it is very clear that there is no significant change in the pattern of cash sales, cash collection and cash deposit during demonetization period, when compared to earlier period in the same financial year and also during immediate preceding financial year. Therefore, we are of the considered view that the assessee has satisfactorily explained source for cash deposit made during demonetization period in specified bank notes and thus, the Assessing Officer is completely erred in making additions u/s. 69 of the Act.*

*10. Coming back to the observations of the Assessing Officer with regard to GO/notification issued by the RBI and Government of India, to deal with specified bank notes. The Assessing Officer is mainly on the issue of notification issued by the RBI to deal with the specified bank notes and argued that the assessee is not one of the eligible person to accept or to deal with specified bank notes and thus, even if assessee furnish necessary evidence, the assessee cannot accept specified bank notes after demonetization and the explanation offered by the assessee cannot be accepted. No doubt specified bank notes of Rs. 500 & Rs. 1000 has been withdrawn from circulation from 09th November, 2016 onwards. The Government of India and RBI has issued various notifications and SOP to deal with specified bank notes. Further, the RBI allowed certain category of persons to accept and to deal with specified bank notes up to 31st December, 2016. Further, the specified bank notes (cessation of liability) Act, 2017, also stated that from the appointed date no person can receive or accept and transact specified bank notes, and appointed date has been stated as 31st December, 2016. Therefore, there is no clarity on how to deal with demonetized currency from the date of demonetization and up to 31st December, 2016. Therefore, under those circumstances, some persons continued to accept and transact the specified bank notes and deposited into bank accounts. Therefore, merely for the reason that there is a violation of certain notifications/GO issued by the Government in transacting with specified bank notes, the genuine explanation offered by the assessee towards source for cash deposit cannot be rejected, unless the Assessing Officer makes out a case that the assessee has deposited unaccounted cash into bank account in specified bank notes.*

11. We further, noted that the Central Board of Direct Taxes had issued a circular for the guidance of the Assessing Officer to verify cash deposits during demonetization period in various categories of explanation offered by the assessee and as per the circular of the CBDT, examination of business cases, very important points needs to be considered is analysis of bank accounts, analysis of cash receipts and analysis of stock registers. From the circular issued by the CBDT, it is very clear that, in a case where cash deposit found in business cases, the Assessing Officer needs to verify the explanation offered by the assessee with regard to realization of debtors where said debtors were outstanding in the previous year or credited during the year etc. Therefore, from the circular issued by the CBDT, it is very clear that, while making additions towards cash deposits in demonetized currency, the Assessing Officer needs to analyze the business model of the assessee, its books of account and analysis of sales etc. In this case, if you go through analysis furnished by the assessee in respect of total sales, cash sales realisation from debtors and cash deposits during financial year 2015-16 & 2016-17, there is no significant change in cash deposits during demonetization period. Therefore, we are of the considered view that when there is no significant change in cash deposits during demonetization period, then merely for the reason that the assessee has accepted specified bank notes in violation of circulation/notification issued by Government of India and RBI, the source explained for cash deposits cannot be rejected. In our considered view, to bring any amount u/s. 69 of the Act, the nature and source of investment, needs to be examined. In case the assessee explains the nature and source of investment, then the question of making addition towards unexplained investment u/s. 69 of the Act does not arise. In this case, the source of deposits has not been disputed and has been created out of ordinary business sales which has been credited into books of accounts and profits has also been duly included in the return of income filed in relevant assessment year. Therefore, we are of the considered view that, additions cannot be made u/s. 69 of the Act and taxed u/s. 115BBE of the Act towards cash deposits made to bank account.

12. At this stage, it is relevant to consider certain judicial precedents relied upon by the ld. Counsel for the assessee. The Ld. Counsel for the assessee relied upon the decision of Delhi High Court in the case of Agson Global Pvt Ltd vs ACIT [2022] 325 CTR 001. The Hon'ble Delhi High Court held that additions made on the sole ground of deviation in the ratio of cash sales and cash deposits during the demonetization period with that of earlier period, is improper and unlawful.

13. The assessee had also relied upon the decision of ITAT Indore Bench in the case of Dewas Soya Ltd, Ujjain vs ITO in ITA No. 336/Ind/2012, where it has been held as under:

*The Hon'ble Indore ITAT Bench in the case of DEWAS SOYA LTD, UJJAIN vs. Income Tax (Appeal No.336/Ind /2012 has held that," the claim of the appellant that such addition resulted into double taxation of the same income in the same year is also acceptable because on one hand cost of the sales has been taxed (after deducting gross profit from same price ultimately credited to profit & loss account) and on the other hand amounts received from above parties has also been added u/s 68 of the Act. This view has been held by the Hon'ble Supreme Court in the case of CIT vs. Devi Prasad Vishwnath Prasad (1969) 72 ITR 194(SC) that "It is for the assessee to prove that even if the cash credit represents income, it is income from as source, which has already been taxed." The assessee has already offered the sales for taxation hence the onus has been discharged by it and the same income cannot be taxed again."*

14. The ld. DR, has relied upon the decision of ITAT, Hyderabad Benches, in the case of Vaishnavi Bullion Pvt Ltd vs ACIT Taxsutra 914/ITAT/2022 (Hyd). We, find that in the said case, the Tribunal noted that CFSL report, books and statement are contrary to assessee's claim which are of post demonetization period. Under these facts, the Tribunal came to the conclusion that additions made towards cash deposits during demonetization period, assessee could not explain proper source. In this case, on perusal of details and records, we find that the assessee has filed all details to explain source for cash deposits and on the basis of details filed by the assessee, the Assessing Officer never disputed fact that source for cash deposit is not out of ordinary business receipts, which has been accounted in the books of accounts of the assessee and further, there is no deviation in cash deposits during demonetization period when compared to earlier period in same financial year and in earlier financial year. Therefore, we reject the case laws relied upon by the ld. DR.

15. In this view of the matter and by considering facts and circumstances of this case, we are of the considered view that the Assessing Officer erred in making additions towards cash deposits during demonetization period u/s. 69 of the Act. The ld. CIT(A), without appreciating relevant facts simply sustained additions made by the

*Assessing Officer. Thus, we set aside the order passed by the CIT(A) and direct the Assessing Officer to delete additions made towards cash deposits u/s. 69 r.w.s. 115BBE of the Act. 16. In the result, appeal filed by the assessee is allowed.*

7. Similarly, the co-ordinate Bench in the case of *Raju Dinesh Kumar vs. DCIT [2024] 159 taxmann.com 1598 (Chennai-Trib.)* dated 19.01.2024 held as under:

*9. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The facts borne out from the record clearly indicate that the assessee is running a dhall mill and manufacturing various kinds of dhalls. The facts brought on record by the AO further indicated that the assessee procures various kinds of pulses from local market and manufacturing into various kinds of dhalls and sells to unregistered dealers in cash. The assessee has filed comparative cash sales and cash deposits into bank account for FY 2015-16 & FY 2016-17 and also cash sales and cash deposits for the month of October & November, 2015 and October & November, 2016. On perusal of details filed by the assessee, which has been reproduced by the AO in the assessment order, we find that there is no abnormal variation in cash sales and cash deposits into bank account for FY 2015-16 & FY 2016-17. Further, the cash sales achieved by the assessee for FY 2015-16 is higher than the cash sales reported for FY 2016-17. From the details filed by the assessee, it is abundantly clear that there is no sudden increase in cash sales during demonetization period when compared to earlier Financial Years. Further, the assessee has filed cash book and other details to prove availability of cash in hand as on 08.11.2016 at Rs.71,76,208/-. In fact, the AO is not disputed the fact that the assessee has filed cash book and as per said cash book, cash in hand as on 08.11.2016 was at Rs.71,76,208/-. If you go by the nature of business of the assessee and sales trend, it is undoubtedly clear that the assessee's sales predominantly in cash, and thus, the cash in hand shown by the assessee as on 08.11.2016 appears to be genuine and bona fide. To this extent, in our considered view, the reasons given by the AO to reject explanation of the assessee for source for cash deposits into bank account is devoid of merits.*

*10. Having said so, let us come back to the explanation of the assessee with regard to source for remaining cash deposits. The assessee claims that he is into manufacturing of various kinds of dhalls and sells to unregistered dealers in cash.*

*The assessee claims that he has collected cash in demonetized currency from customers even after 09.11.2016 and said cash receipts is not violation of Specified Bank Notes (Cessation of Liabilities) Act, 2017. We find that although, the Government of India & RBI issued various notifications and circulars barring people transacting in SBNs, but, as per Specified Bank Notes (Cessation of Liabilities) Act, 2017, no person shall accept or transact any SBNs from the appointed date. As per said Act, appointed date is 31.12.2016. From the above, it is very clear that up to appointed date, persons can transact in SBNs. However, the only requirement is, they should be able to establish source for said cash deposits. This principle is further fortified by the decision of the ITAT Chennai Bench in the case of Amar Sparklers Factory v. ITO in ITA No.808/Chny/2023 order dated 11.10.2023, where the Tribunal after considering relevant facts has held as under:*

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. In so far as addition of Rs. 6,62,783/-, we find that the assessee itself has admitted shortage of source in their cash flow statement filed before the AO. Therefore, from the above, it is undoubtedly clear that the assessee could not explain source for cash deposits to the extent of Rs. 6,62,783/- and thus, we are of the considered view that, there is no error in the reasons given by the CIT(A) to sustain additions made towards cash deposits to the tune of Rs. 6,62,783/-. In so far as addition of Rs. 20,40,000/- towards advance received from group concerns, it was an argument of the appellant that group concerns have paid advance in cash during demonetization period and deposited into IDBI bank account. In this regard, the appellant has filed necessary details including PAN nos. and confirmation letters from the group concerns to prove receipt of trade advance. The Assessing Officer has not disputed these facts, however made additions only on the ground that the assessee should not have accepted cash in specified bank notes after 08.11.2016. We find that this issue is covered in favour of the assessee by the decision of ITAT, Chennai Benches in the case of M/s. Micky Fireworks Industries vs ACIT in ITA No. 264/Chny/2023, dated 26.07.2023, where the Tribunal under identical set of facts deleted additions made by the Assessing Officer, and the findings of the Tribunal is reproduced as under:

“4. From the facts, the undisputed position that emerges is that the assessee has made sale of fireworks during festival season. The sales are duly accounted for by the assessee in the books of accounts. The accounts have duly been audited. The assessee has realized debtors out of such sale in SBN which have been deposited in the bank account of the assessee. The cash deposited by the assessee has duly been accounted for in the books of accounts. The Ld. AO has not alleged any bogus sales or back dated sales made by the assessee. No defect has been pointed in the books of accounts as maintained by the assessee.

5. It could also be seen that during the course of assessment proceedings, various notices were issued u/s 142(1) from time to time calling numerous details from the assessee. The assessee was required to file numerous details including monthly cash flow statement, inventory of closing stock, copy of sales tax assessment order, monthly cash deposits and credits for various periods, ledger account for purchase and other expenditure, monthly sales gross receipts, monthly purchases, details of old notes and new notes deposited during demonetization period, the day book, Cash book, ledger maintained for business, cash balance as per cash book etc. All these details were duly submitted by assessee vide reply dated 12-12- 2019. The assessee also submitted month-wise cash deposits in all bank accounts, details of old notes deposited at the time of demonetization period. Pertinently, the assessee also furnished details of name, address and PAN of cash depositors who deposited cash during demonetization period. The same has been detailed on pages 24 to 35 of the paper book. Apparently, the same could not be faulted with by Ld. AO. There is no allegation of any irregularity in the books of accounts.

6. We find that the only reasoning to treat the said deposits as unexplained cash credit u/s 68 is that the assessee was debarred from dealing in SBN after 08-11-2016. However, in the present case, the cash so received by the assessee is backed by sales carried out by the assessee as recorded in the books of accounts. Therefore, the source of

cash is duly explained. The provisions of Sec.68 could be invoked only in cases when there was unexplained cash credit in the books of accounts maintained by the assessee. However, the assessee has duly identified the debtors from whom the cash was received and the same could not be disputed by lower authorities. The PAN of respective debtors as well as quantum of cash realized from each of them has duly been detailed by the assessee before Ld. AO during assessment proceedings. No defect has been pointed out in the books of accounts. In such a case, the credit could not be held to be unexplained cash credit and the impugned additions are not sustainable in law.

7. The SMC bench of this Tribunal in Mrs. Umamaheswari Vs. ITO (supra), on identical facts, deleted similar additions on the ground that the assessee had duly evidenced the source of cash deposit and therefore, addition could not be made u/s 68. Similar is another decision of SMC Raipur Bench in Rahul Cold Storage Vs. ITO (supra) wherein it has similarly been held that when the deposits were sourced out of business receipts duly recorded in the books of accounts, no such addition could be made u/s 68. The other cited decision of Bangalore Tribunal is also on similar lines.

8. Considering the facts and circumstances of the case, we find force in assessee's case and therefore, delete the impugned addition as made u/s 68. We order so. The Ld. AO is directed to re-compute the income of the assessee."

8. In this view of the matter and by following the decision of ITAT, Chennai Benches, we direct the AO to delete additions made towards source for cash deposits at Rs. 20,40,000/- u/s. 69A of the Act.

*11. In the given facts of the present case, there is no dispute with regard to the fact that the assessee's sales predominantly in cash. It is also an undisputed fact that there is no abnormal variation in total sales, cash sales and cash deposits for two Financial Years. The assessee is also able to file various evidences, including month-wise purchase and sales and cash book to prove availability of cash in hand as on 08.11.2016. Therefore, we are of the considered view that going by the nature of business of the assessee and also details submitted for two Financial Years, the explanation offered by the assessee towards source for cash deposits into bank*

*account during demonetization period, is bona fide and acceptable. The AO and the Ld.CIT(A) without considering the relevant submissions of the assessee simply made addition towards cash deposits u/s.69A r.w.s.115BBE of the Act. Thus, we set aside the order of the Ld.CIT(A) and direct the AO to delete the addition made towards cash deposits u/s.69A r.w.s.115BBE of the Act.*

*12. In the result, appeal filed by the assessee is allowed.*

8. In the above facts and circumstances of the case, we are of considered view that the AO erred in making additions towards cash deposits during demonetization period u/s 68 of the Act. The Id.CIT(A) also failed to look into the consistent transaction as in past, cash sales and source of cash deposits etc. Thus, we set aside the impugned order of the Id.CIT(A) and direct the Assessing officer to delete addition made towards cash deposits u/s 68 of the Act.

9. In result, appeal filed by the assessee is allowed.

Order pronounced in the Bench on 14th August, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai:

दिनांक Dated : 14-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

**न्यायिक सदस्य / JUDICIAL MEMBER**