

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI MANU KUMAR GIRI, HON'BLE JUDICIAL MEMBER**  
**AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.: 1273/Chny/2024

निर्धारणवर्ष / Assessment Year: 2017-18

Rajmadhan Jagadeesan,  
4-8/31, Plot No. 60,  
1<sup>st</sup> Main Road,  
P & T Nagar,  
Madurai – 625 017.

The Income Tax Officer,  
v. Non-Corporate Ward -1(7),  
Madurai.

**[PAN: ATOPR-5753-Q]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Shri. Kathir, Advocate

प्रत्यर्थीकीओरसे/Respondent by

: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 16.07.2024

घोषणा की तारीख/Date of Pronouncement : 14.08.2024

**आदेश /ORDER**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 08.03.2024.

2. The main grievance of the assessee is against the action of the Id.CIT(A) confirming the addition of Rs.96,94,908/- u/s. 69A of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). For

this, the assessee has raised various grounds which are argumentative, exhaustive and hence, need not be reproduced.

3. The brief facts are that the assessee is an individual, who filed his return of income for the assessment year 2017-18 on 24.10.2017, declaring total income of Rs.5,85,750/-. Subsequently, the case was selected for scrutiny through CASS and notices u/s.143(2) and 142(1) of the Act was issued and served on the assessee. In response to the notices, the assessee submitted through e-filing portal and produced the books of accounts. On verification of books of accounts and bank accounts, it is found that the assessee deposited specified bank notes of Rs.1,10,98,500/- during demonetization period to his bank accounts (Rs.5,40,000/- - Indian Bank and Rs.1,05,58,500/- - Andhra Bank) whereas the assessee's books of account had a cash balance of Rs.14,03,592/- as on 08.11.2016. The difference between the amount deposited into bank accounts and cash balance as on 08.11.2016 arrives at Rs.96,94,908/-, for which the assessee explained that during demonetization period the assessee accepted specified bank notes from customers (debtors) and agents on account of sale of ITC products and the same was deposited in bank accounts. Thus, the Assessing Officer noted that the assessee has deposited total cash

of Rs.1,10,98,500/- in specified bank notes. But, since assessee has shown cash on hand as on 08.11.2016 to the tune of Rs.14,03,592/- and for the balance amount of Rs.96,94,908/-, the Assessing Officer has deducted 0.73% of net profit which aggregates to Rs.71,232/- and has been added u/s. 69A of the Act i.e.,Rs.96,23,676/-. Aggrieved, the assessee preferred an appeal before the Id.CIT(A).

4. The Id.CIT(A), after considering the order of the Assessing Officer, grounds of appeal and statement of facts held as under:

*"6. I have gone through the assessment order the grounds of appeal and statement of facts. As seen from the assessment order, the appellant has deposited Rs.1,05,58,500/- in Andhra Bank (a/c no.294811100000122) & Rs.5,40,000/- in Indian Bank (a/c.6465146073) during the demonetisation period in specified bank notes in his bank accounts totalling to Rs.1,10,98,500/-. The AO has given the finding that as on 08.11.2016, the demonetisation date, the appellant had cash in hand balance of Rs.14,03,592/-. The appellant submitted before the AO that the source of cash deposit was the recovery from the debtors and sale of tobacco products during the demonetisation period. The AO held that the appellant was prohibited by law from accepting demonetised currency after demonetisation was announced and hence, the demonetised currency deposited by the appellant over and above the cash in hand as on the date of demonetisation was unexplained money, which is required to be brought to tax u/s.69A of the Act. The AO has given credit for the said cash in hand and made the addition u/s.69A of the Act of Rs.96,23,676/- as unexplained money. Aggrieved by the said addition, the appellant is in appeal and has raised 06 grounds which are adjudicated as under:-*

*7. Ground no.1 & 6 are general in nature and hence, not adjudicated.*

8. Ground no.2 to 5 are relating to addition of Rs.96,23,676/- u/s.69A of the Act. As all these grounds are relating to the same issue they are being adjudicated together. The facts of the case are that the appellant is the dealer of ITC dealing in Cigarettes and Tobacco products. The AO has given the finding that as on 08.11.2016, the demonetisation date, the appellant had cash in hand balance of Rs.14,03,592/-, The appellant submitted before the AO that the source of cash deposit was the recovery from the debtors and sale of tobacco products during the demonetisation period. The AO held that the appellant was prohibited by law from accepting demonetised currency after demonetisation was announced and hence, the demonetised currency deposited by the appellant over and above the cash in hand as on the date of demonetisation was unexplained money, which is required to be brought to tax u/s.69A of the Act. The AO has given credit for the said cash in hand and made the addition u/s.69A of the Act of Rs.96,23,676/- as unexplained money.

8.1 In these grounds, the contention of the appellant is that the appellant being the dealer in ITC products cannot generate any unaccounted income and the amount deposited in the bank account is out of sale of ITC products and hence, provisions of Section 69A of the Act are not attracted in appellant's case. After the demonetisation was announced, the appellant was not expected to accept the demonetised notes either from debtors or from customers. The demonetised notes could be accepted as per the, RBI Circular only by authorised banks, petrol pumps, hospitals, Central and State Government agencies and utilities. The appellant could have got the benefit of only the cash balance as on date of demonetisation if deposited in the bank, the same has been rightly allowed by the AO. Hence, the contention of the appellant cannot be accepted and the same has been rightly done by the AO. The appellant has referred to decisions of ITAT, which are different on facts and not applicable to the appellant's case. Therefore, the addition made by the Assessing Officer of Rs.96,23,676/- u/s.69A of the Act is sustained. Ground no.2 to 5 are dismissed."

5. The Id.AR stated that the Id.CIT(A) grossly erred in upholding the addition of cash deposits of Rs.96,23,676/- u/s.69A of the Act. Supporting the case of the assessee, Ld. Ld. AR submitted that the

assessee is engaged in distribution of ITC products and made sales in the regular course of business both on cash and credit. The cash was collected from debtors during demonetization period also which was deposited into bank accounts and therefore, impugned additions as made by lower authorities u/s 68 are unsustainable. Reliance has been placed on the decision of SMC Bench of this Tribunal in the case of **Mrs.Umamaheswari Vs. ITO in ITA No.527/Chny/2022** dated 14-10-2022; the decision of SMC Raipur Bench in **Rahul Cold Storage Vs. ITO in ITA No.123/RPR/2022** dated 29-11-2022 as well as another decision of co-ordinate Bench of Bengaluru Bench in **ITO Vs M/s. Manasa Medicals in ITA No.552/Bang/2022** dated 31-10-2022. The copies of the orders have been placed on record.

6. The Ld. Sr. DR, on the other hand, justified impugned addition. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. It is undisputed fact that the assessee was a dealer in ITC products and cash collections has been made from debtors and cash sales. 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 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.

8. 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 book, Day book, Bank statements of Axis bank, Sales Register, ledger accounts, cash balance as per cash book, Balance sheet and profit & Loss A/c. etc. All these details were duly submitted by assessee vide reply dated 21/11/2019. 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 filed a letter dated 25/11/2019 and stated that the entire collection of cash from the debtors of the business i.e. sale proceeds of ITC products. The same has been detailed on pages 1

to 7 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. Unless the Assessing Officer has some material to show that assessee had any other source of income, it is not correct to presume that Rs.96,23,676/- was undisclosed income.

9. We find that the only reasoning to treat the said deposits as unexplained money u/s.69A 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.

10. The provisions of Sec.69A could be invoked only in cases where the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source or the explanation offered by him is not, in the opinion of the AO, satisfactory.

11. However, the assessee has duly identified the debtors from whom the cash was received and the same could not be disputed by lower authorities. No defect has been pointed out in the books of accounts. In such a case, the credit could not be held to be unexplained money and the impugned additions are not sustainable in law.

12. 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.

13. 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 69A. The Ld. AO is directed to re-compute the income of the assessee by deleting the impugned addition made U/s.69A.

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

Order pronounced in the open court on 14<sup>th</sup> August, 2024 at Chennai.

**Sd/-**

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

न्यायिक सदस्य/**Judicial Member**

**Sd/-**

(एस.आर.रघुनाथा)

**(S. R. RAGHUNATHA)**

लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 14<sup>th</sup> August, 2024

**JPV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT–Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF