

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 234/Del/2024
(Assessment Year: 2017-18)**

Pragya Gupta, W/o. Gaurav Gupta, 224, Madhuban Colony Baghpat Road, Meerut, Uttar Pradesh (Appellant) PAN:AIVPG3134C	Vs. ITO, Ward-1(2)(1), Meerut (Respondent)
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Assessee by :	Shri Rohit Agarwal, CA
Revenue by:	Shri Vivek Vardhan, Sr. DR

Date of Hearing	03/06/2024
Date of pronouncement	29/08/2024

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.234/Del/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1058307905(1) dated 29.11.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 24.12.2019 by the Assessing Officer, ITO, Ward-1(2)(1), Meerut (hereinafter referred to as 'ld. AO').
2. The assessee has raised the following grounds of appeal before us:-

"1. That Hon'ble CIT(NFAC Delhi) ignores all the submission made by the assessee during the course of hearing before him/her and fact and circumstance of the case in confirming the order of Ld AO which is illegal and deserve to be deleted

2. *That the Ld AO as well as CIT (NFAC Delhi) erred in law by treating the cash sales made before the demonization period as bogus sales while the assessee have already declared income in his P&L Account and amount deposited during demonetization period was added in the returned income of the assessee as unexplained money under section 69A of income tax Act 1961*
 3. *That the Ld AO as well as CIT (NFAC Delhi) erred in law and facts and circumstances of the case by ignoring all the supporting documents in regard of cash sales made by the assessee and stock register maintained by the assessee without any material on record while the assessee have also reduce its stock against these cash sales.*
 4. *That the Ld. AO as well as CIT (NFAC Delhi) erred in law and facts and circumstances of the case that by making additions as unexplained money under section 69A of Rs 8842038 in the first year of business without any basis*
 5. *That the Ld AO as well as CIT (NFAC Delhi) have rejected audited books of accounts by a qualified CA only on the basis of amount deposited during demonetization period which is unlawful and unjustified hence additions made deserved to be deleted.*
 6. *That the Ld AO as well as CIT (NFAC Delhi) erred in law by initiating the penalty under section 271AAC of Income Tax Act 1961 in regard of unexplained income which is unjustifiable.*
 7. *That the assessee craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing, of the appeal, so as to enable the Honourable Income Tax Appellate Tribunal, ITAT or Tribunal, to decide this appeal according to law."*
3. Though the assessee has raised several grounds, we find that only effective issue to be decided in this appeal is with regard to addition made on account of cash deposit during the demonetization period.
 4. We have heard the rival submissions and perused the material available on record. The assessee is an individual earning salary income,

income from business of trading and manufacturing of bullion, gold and diamond ornaments and income from other sources. During the year under consideration, the assessee started her business of trading and manufacturing of bullion, gold, and diamond ornaments under the name and style of M/s. Swastik Enterprises (proprietary concern) and got her VAT registration w.e.f. 09.09.2016. The return of income for assessment year 2017–18 was filed by the assessee on 11.08.2017 declaring total income of ₹5,18,030/-. The books of account of the assessee were duly subjected to tax audit u/s 44AB of the Act. The total cash deposits made by the assessee during the demonetization period was ₹1,23,50,000/-. The assessee explained that the same were sourced from her business cash in hand, which was received by her on cash sales and receipts from debtors, which were duly recorded in her books of account. It was also submitted that the sales made by the assessee were duly supported by reduction in stock movement and same stood duly accepted by the Sales Tax Department. The assessee gave the details of cash sales and the credit sales in the prescribed format sought by the Id AO. The assessee furnished the copy of the bank statements from 01.04.2015 to 31.03.2016 and 01.04.2016 and 31.03.2017 together with the narration of entries of transactions above Rs. 20,000/-. The assessee also furnished the month-wise details of sales, purchases, cash received from debtors and cash sales made, cash deposits in bank along with details of utilization for the financial year 2016–17 relevant to assessment year 2017-18. With regard to the source of deposits made during the demonetization period , the assessee explained that the same were sourced out of sale of jewellery and gold bars and recovery from debtors, which were already disclosed in the books of account by the assessee. The assessee also enclosed the entire cashbook for the whole year. The assessee had also received advance from M/s. Komal Jewellers

amounting to ₹34 lakhs and M/s. Komal Jewellers and Sons amounting to ₹44,01,866/-. The assessee furnished confirmation from both these parties. The Id AO even show caused the assessee that cash was received from several parties during the period 09.09.2016 to 08.11.2016 and directed the assessee to explain the same proving the identity of these persons and genuineness of the transactions. The list of persons from whom the cash was received from the assessee were tabulated from pages 8 to 14 of the assessment order. The assessee also explained the modus operandi that she had received advance from certain customers that are included in the list of parties tabulated by the Id AO and as and when full payment was received from them, physical delivery of goods would be given to them. The assessee enclosed the ledger account of those parties along with invoices issued to them before the Id AO. It was also explained that since assessee started her business only on 09.09.2016, she had very limited employees with her and believed more in doing cash sales in the initial month of October 2016. Further, due to festive season prevailing in the end of October 2016 and first week of November 2016 (such as vijayadashami, dhanteras, diwali, bhai dooj etc), the assessee with her limited manpower could not deposit the cash collected in the bank account. Ultimately, the cash stood deposited in the bank account of the assessee as under:-

Date	Amount
11.11.2016	Rs. 37,00,000/-
12.11.2016	Rs. 65,00,000/-
13.11.2016	<u>Rs. 21,50,000/-</u>
Total	Rs. 1,23,50,000/-

5. The assessee furnished the details of all those persons from whom cash was received. The assessee also submitted that she had made cash

sales of Rs. 96,41,987/- and credit sales of ₹46,62,851/- in October 2016. The assessee had also made cash sales of ₹2,00,651/- in the first week of November 2016. The demonetization was announced by the Government of India on 08.11.2016.

6. The Id AO doubted the genuineness of the cash sales made by the assessee in October 2016 and during the period 01.10.2016 to 10.11.2016 amounting to Rs. 98,42,038/- which was used as a source for deposit of cash in the bank account during the demonetization period. The Id AO accordingly sought to treat the same as income u/s 69A of the Act. While doing so, he found that the assessee had declared an amount of ₹10,00,000/- undisclosed income in the form of cash under Pradhan Mantri Garib Kalyan Scheme 2016 on 27.03.2017, for which the Id AO gave credit and accordingly proceeded to treat the sum of Rs. 88,42,038/- as undisclosed income u/s 69A of the Act. The Id AO in para 4 page 25 of his order also observed the correctness and completeness of the books of account is not established and accordingly invoked section 145(3) of the Act and rejected the book results. He also observed that the addition of ₹88,42,038/- would cover trading addition on account of low profit rates. This action of the Id AO was upheld by the Id CIT(A).

7. We find that the cash sales bills were duly furnished by the assessee before the lower authorities which are enclosed in pages 230 to 380 of the paperwork together with the cash sales ledger accounts. Cash sales bills duly contained description of ornaments, quantity, purity, etc. The assessee has also furnished item-wise stock register for the period 01.10.2016 to 31.10.2017 before the Id AO, which are enclosed in pages 160 to 172 of the paper book. The assessee also placed on record income tax return together with the audited balance sheet for the

Assessment years 2018–19, 2019–20 and 2020–21, which are enclosed in pages 60 to 112 of the paperwork to drive home the point that assessee's business was carried on even after demonetization period. Hence, the observation made by the Id CIT(A) in page 4 of his order that assessee's business was closed soon after the demonetization period is factually incorrect.

8. The assessee had filed purchase register for the period of 01.04.2016 to 31.03.2017, which are enclosed in pages 194 to 197 of the paper book, wherein the payments were made through account payee cheques. The assessee has furnished the sale register for the period of 01.04.2016 to 31.03.2017 containing both cash sales and credit sales which are enclosed in page 173 to 193 of the paper book. Item-wise stock register was filed by the assessee, which are enclosed in pages 160 to 172 of the Paper Book. The cash book of M/s. Swastik Enterprises (proprietary concern) for the period 01.04.2016 to 31.03.2017 was filed before the Id AO enclosed in pages 124 to 159 of the Paper Book from where it could be seen that the assessee had sufficient cash balance in her kitty to explain the source of cash deposits made in the bank account during the demonetization period. The cash balance available with the assessee as on 08.11.2016 was Rs.1,24,88,229/-. Hence, the cash deposits during demonetization period totaling to Rs. 1,23,50,000/- stood properly explained from the source of cash book itself. There is absolutely no reason to doubt the cash sales made by the assessee in October 2016 and first week of November 2016 totaling to Rs. 98,42,038/-. We find that assessee had duly reduced the stock correspondingly in its stock register to the extent of cash sales made by the assessee and purchases made by the assessee are not doubted. The purchases made are duly brought as goods inward in the stock register

and as and when goods are sold, correspondingly reduction in stock register is made, irrespective of the fact, whether it is cash sales or credit sales. Hence, we have no hesitation to hold that there is absolutely no basis for the lower authorities to treat the cash sales made in October 2016 and November 2016 as bogus and make an addition to that extent in the assessment. Further, the Id AO having resorted to reject the books of account without giving any reason or without bringing on record any defects thereon, ought not to have started the computation of income with the income returned by the assessee in the sum of ₹5,18,030/-. This computation itself goes to prove that the Id AO had indeed accepted the book results of the assessee. Hence, his observation for reduction of books of account has got no meaning and no relevance as it is without any basis. VAT return filed by the assessee together with the VAT orders were filed and the sales reported were duly accepted as such by the VAT authorities and the same are enclosed in pages 220 to 229 of the paper book. In view of this, there is absolutely no reason to treat the cash sales made by the assessee as bogus. Hence, we have no hesitation to delete the addition made in the sum of ₹88,42,038/-. Accordingly, the grounds raised by the assessee in this regard are allowed.

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

Order pronounced in the open court on 29/08/2024.

-Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:29/08/2024
A K Keot

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1. Applicant