

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 356/Ind/2024
Assessment Year: 2019-20

Sanjeev Jha, 195, Sarwa Sampan Nagar, Kanadia Road, Near Columbia Convent, Indore.	बनाम/ Vs.	Income-tax Officer, NFAC, Delhi
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AEYPJ7626M		
Assessee by	Shri H.N.Joshi, AR	
Revenue by	Shri K. Bala Murali Krishna, Sr. DR	
Date of Hearing	21.08.2024	
Date of Pronouncement	30.08.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 20.02.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 27.09.2021 passed by learned NFAC, Delhi ["AO"] u/s 143(3) r.w.s. 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2019-20, the assessee has filed this appeal.

2. The background facts leading to present appeal are such that the assessee-individual is engaged in the business of catering/serving food and

manpower supply to industrial units in a proprietary concern named "M/s Abdhara Services". For AY 2019-20, the assessee filed return declaring a total income of Rs. Nil after set off business loss and unabsorbed depreciation and claiming refund of Rs. 10,63,750/-. The case of assessee was selected for complete scrutiny under CASS for the reason of high refund claim. The AO issued notices u/s 143(2)/142(1) from time to time which were complied with by assessee. During scrutiny-proceedings, the AO found that the assessee made a total purchase of Rs. 1,49,80,882/- from M/s Punjab Foods against which made payments of Rs. 1,13,62,692/- through banking channel and Rs. 8,91,801/- in cash. Accordingly, when the AO show-caused assessee to explain the disallowance attracted by section 40A(3) for cash payments exceeding the prescribed limit of Rs. 10,000/-, the assessee made two-fold submissions, namely (i) the Manager of assessee who managed all activities was not aware of the amendment applicable in section 40A(3) from 01.04.2018 whereby the upper limit for cash payment was reduced from Rs. 20,000/- to Rs. 10,000/- and (ii) that the assessee had to make cash payments to M/s Punjab Food because M/s Punjab Food pressurized assessee's manager to clear dues and the assessee had to purchase grocery items from M/s Punjab Food for supply to canteens of various industrial units. The assessee also relied upon certain judicial rulings to contend that the no disallowance is attracted in case of cash payments owing to business expediency. The AO rejected assessee's submission for these reasons, namely (i) M/s Punjab Foods was having

bank a/c, (ii) The case of assessee was not covered under Rule 6DD which provides exceptions in which disallowance is not triggered, (iii) the decisions relied by assessee were on different facts. Ultimately, the AO made a disallowance of Rs. 8,91,801/- u/s 40A(3). Aggrieved, the assessee carried matter in first-appeal. During first-appeal, the CIT(A) upheld AO's action. Now, the assessee has come in next appeal before us.

3. We have learned representatives of both sides and also perused the orders of lower-authorities. At first, we reproduce below the order passed by CIT(A) upholding the disallowance made by AO:

"In ground No. 1, the Appellant has contested the order u/s 143(3) r.w.s. 144B of the Income-tax Act, 1961, dated 27.09.2021 for the assessment year 2019-20 of the AO of making an addition of Rs. 8,91,801/- u/s 40A(3) of the Act.

I have carefully considered the submissions made by the appellant. It is observed that the appellant had purchased goods from M/s. Punjab Foods Products amounting to Rs. 1,49,89,882.80 and an amount of Rs. 1,13,62,692/- was paid through banking channels and the remaining amount of Rs. 8,91,801/- was paid in cash exceeding Rs. 10,000/- in a day. The AO further observed that the grocery items purchased from M/s. Punjab Food Products are not covered by the conditions laid down in Rule 6DD(e) of the I.T. Rules, 1962 (i.e. payment is made to the cultivation, growers or products). The AO therefore added this amount u/s 40A(3).

It is seen that during the course of the assessment proceedings, the Appellant was not able to offer any satisfactory explanation as to why

the amount was paid in cash. When an amount of Rs. 1,13,62,692/- was paid through the banking channel, there is no reason why the remaining amount also could not have been paid through banking channel. IN the case laws relied upon by the appellant, the Hon'ble Tribunals allowed the cash payments as there was compulsion to the assessee to make the payments on account of business expediency. In the case of the appellant, there was no such compulsion to make the payments on account of business expediency. In view of the above, the AO was justified in making the addition of Rs. 8,91,801/- u/s 40A(3) and this ground is dismissed.

In the result, the appeal is dismissed."

4. Thus, the CIT(A) has observed that the assessee was not able to offer any satisfactory explanation as to why amount was paid in cash. He has further noted that when an amount of Rs. 1,13,62,692/- was paid through banking channel, there was no reason to make cash payment. He has also noted that in the case laws relied by assessee, there was a compulsion upon assessee to make cash payment on account of business expediency but there is no such expediency in assessee's case. Before us also, the position of assessee remains same as noted by CIT(A). Admittedly the assessee has made a substantial purchase from M/s Punjab Foods and made a substantial payment to the supplier through banking channel. Still the assessee has made cash payments to same supplier for which there is no substantiation. The assessee's claim that cash payment had to be made due to pressure of M/s Punjab Foods to clear dues, is just a verbal claim not

supported by any evidence. In fact, the assessee made a submission before AO that his manager was not aware of reduction in limit of cash payments from Rs. 20,000/- to Rs. 10,000/-; this submission of assessee in a way also shows that the cash payments exceeding Rs. 10,000/- was not made on account of business expediency. Ld. DR for revenue also carried us to Page 5-15 of Paper-Book filed by assessee where the Ledger A/c of M/s Punjab Foods is filed. Referring to same, Ld. DR rightly pointed out that the supplier allowed credit to assessee throughout the year and there is no clearance of dues at any time as being claimed by assessee. It is further discernible from this Ledger A/c that many of the cash payments are not relatable to specific purchases made on the same day. For instance, a cash payment of Rs. 19,784/- has been made on 24.04.2018 but there is a purchase of Rs. 3,975/- only on 24.04.2018, rest of the purchases were made on earlier dates. Similarly, there is a cash payment of Rs. 16,458/- on 16.05.2018 but there is a purchase of Rs. 4,064/- only on 16.05.2018, rest of the purchases were made on earlier dates. Thus, the claim of assessee that the cash payments were made to make clear dues or to make urgent purchases is not even supported by assessee's own books. It might have happened that the assessee's manager was not aware of the upper limit reduced from Rs. 20,000/- to Rs. 10,000/- in section 40A(3) but even that cannot save assessee from the rigour of section 40A(3). Therefore, after a careful consideration, we do not have any reason to upset the orders passed by

lower-authorities. The same are hereby upheld. The assessee fails in its appeal.

5. Resultantly, this appeal is dismissed.

Order pronounced in open court on 30.08.2024

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 30.08.2024

CPU/Sr. PS

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

By order

Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore