

आयकर अपीलिय अधिकरण, विशाखापटणम SMC पीठ, विशाखापटणम  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM SMC BENCH, VISAKHAPATNAM

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./ I.T.A. No.135/Viz/2024  
(निर्धारण वर्ष / Assessment Year : 2017-18)

Ashoka Enterprises,  
27-23-55, Gopala Reddy Road,  
Governor peta, Vijayawada,  
Andhra Pradesh-520002.  
PAN: AADFA2559

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यार्थी की ओर से / Respondent by

Vs. Asst. Commissioner of  
Income Tax,  
Circle-2(1),  
Vijayawada.

(प्रत्यार्थी/ Respondent)

Sri C. Subrahmanyam, AR  
Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing : 04/09/2024  
घोषणा की तारीख/Date of  
Pronouncement : 25/09/2024

O R D E R

PER DUVVURU RL REDDY, Judicial Member :

This appeal filed by the assessee is against the order of the Learned Addl / JCIT (Appeals), National Faceless Appeal Centre, Delhi ["Ld. Addl / JCIT (A)"], Panaji in DIN & Order No. ITBA/APL/S/250/2023-24/1060968208(1), dated 15/02/2024 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 ["the Act"] for the AY 2017-18.

2. Briefly stated the facts of the case are that the assessee is a firm, engaged in the business as a distributor in consumer products, under the name and style of M/s. Ashoka Enterprises filed its return of income for the AY 2017-18 on 31/10/2017 admitting a total income of Rs. 18,45,310/-. Subsequently, the case was selected for complete scrutiny. Accordingly, notice U/s. 143(2) dated 25/09/2018 was issued to the assessee by way of email in ITBA module. Subsequently, notice U/s. 142(1) of the Act dated 21/01/2019 was issued to the assessee and called for certain information. Thereafter, notices U/s. 142(1) r.w.s 129 of the Act dated 06/09/2019 was issued due to change in the incumbency and called for certain information from the assessee. In response to the notices issued, the assessee furnished the information electronically through online as called for by the Ld.AO. During the scrutiny proceedings, the Ld. AO observed that during the AY under consideration the assessee maintained three bank accounts in HDFC Bank and on verification of the same, the Ld. AO noticed that there are certain cash deposits in the assessee's bank accounts. Accordingly, a show cause notice dated 04/12/2019 was issued to the assessee by way of email. However, there was no response from the assessee. Therefore, the Ld. AO treated the cash deposits of Rs. 7,99,698/- made in the

HDFC Bank account as unexplained money U/s. 69A r.w.s 115BBE of the Act and added the same to the total income of the assessee. The Ld. AO also initiated the penalty proceedings U/s. 270A of the Act for under reporting of the income. Thus, the Ld.AO determined the total income at Rs. 26,45,010/- which includes the addition of Rs. 7,99,698/- U/s. 69A r.w.s 115 of the Act and passed the assessment order U/s. 143(3), dated 07/12/2019. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. On appeal, the assessee made submissions before the Ld. Addl / JCIT (A), Panaji. However, the Ld. Addl / JCIT (A), Panaji did not consider the submissions of the assessee and dismissed the appeal by upholding the addition made by the Ld. AO. Aggrieved by the order of the Ld. Addl / JCIT (A), Panaji, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *That under the facts and circumstances of the case, the order passed U/s. 143(3) of the Act dated 7/12/2019 that was upheld by Ld. JCIT(A), Panaji vide order U/s. 250 of the Act dated 15/02/2024 is contrary to the facts and the facts of the case and provisions of law.*
2. *The Ld. JCIT(A) is not correct in upholding the addition made of Rs. 7,98,698/- u/s. 69A of the Act by observing erroneously that the cash deposits during demonetization period are not satisfactorily / adequately explained.*

3. *The Ld. CIT(A) failed to appreciate the fact that the disputed cash deposits, being source from recorded sale proceeds do not fall within the mischief of section 69A of the Act.*
4. *In the light of the foregoing, it is respectfully prayed that the additions made by the AO and upheld by the appellate authority be deleted, and appropriate relief be granted to the appellant.”*

4. At the outset, the Learned Authorized Representative [“Ld. AR”] submitted that the balance of the assessee’s Day Book as on 08/11/2016 is Rs. 6,93,302/-. The Ld. AR also submitted that the cash deposits are out of the cash sales and collection from the debtors as per the books of accounts of the assessee. The Ld. AR further argued that since the assessee has recorded the money in the books of accounts, the same cannot be treated as unexplained money U/s. 69A of the Act as observed by the Ld. AO and the Ld. JCIT(A). These facts along with the necessary evidences viz., cash book ledgers etc., were produced before the Ld. AO as well as the Ld. JCIT(A) however, the Ld. Revenue Authorities have not considered the submissions of the assessee. The Ld. AR further submitted that during the assessment proceedings, the Ld. AO has not doubted the sales of the assessee and accepted the books of account. Therefore, the Ld. AR pleaded that the orders of the Ld. Revenue Authorities may be set-aside the assessee may be granted relief.

5. On the other hand, the Ld. Departmental Representative ["Ld. DR"] vehemently argued in support of the orders of the Ld. Revenue Authorities and pleaded to uphold the decision taken by them.

6. I have heard both the sides and perused the orders of the Ld. Revenue Authorities as well as the material placed on record. I have also gone through the paper book and written submissions of the assessee filed before the Bench. On careful perusal of the assessee's cash book ledger filed before me, I find that the balance of the Day Book as on 08/11/2016 is Rs. 6,93,302.42. This fact was explained by the assessee and demonstrated before the Ld. AO along with the documentary evidence. The assessee has also explained before the Ld. AO that the cash deposits are out of the cash sales made and collections from the debtors. Further, on careful perusal of the orders of the Ld. Revenue Authorities, I find that the Ld. Revenue Authorities have accepted the total turnover of the assessee however, they did not accept the turnover made by the assessee during the demonetization period which is not correct and considering these facts and circumstances and totality of the case, I am of the considered view that the cash deposits are made out of the sale proceeds of

the assessee and in my opinion the assessee has properly explained the source of the cash deposits along with documentary evidence. Therefore, I hereby direct the Ld. AO to delete the addition made U/s. 69A r.w.s 115BBE of the Act. It is ordered accordingly.

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

Pronounced in the open Court on 25<sup>th</sup> September, 2024.

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated :25/09/2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित /Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Ashoka Enterprises, 27-23-55, Gopala Reddy Road, Governor Peta, Vijayawada, Andhra Pradesh-520002.
2. राजस्व/The Revenue – Assistant Commissioner of Income Tax, Circle-2(1), Vijayawada.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam