

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

BEFORE DR. BRR KUMAR ACCOUNTANT MEMBER

**ITA No.1353/Ahd/2024
Asstt.Year : 2017-18**

Nileshkumar Bharwad 375, Bharwad Vas, Ramol Road, Ramol Ahmedabad 382 0449. PAN : BIGPB 1722 F	Govindbhai V s	ITO, Ward-3(2)(10) Now 3(2)(1) Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri Pamil H. Shah
Revenue by :	Shri Ravindra, Sr.DR

सुनवाई की तारीख / **Date of Hearing** : **07/10/2024**
घोषणा की तारीख / **Date of Pronouncement**: **07/10/2024**

आदेश / O R D E R

This is assessee's appeal against the order of the ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 18.6.2024 for the Asstt. Year 2017-18 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short).

2. The grounds raised by the assessee in the appeal are as under:

1. *The learned CIT(A) has erred in law and on facts of the case, in sustaining addition u/s.69 of Rs.33,51,051/-, on account of cash deposit and credit entries in bank.*
2. *The learned CIT(A) has erred in law and on facts of the case, in confirming the applicability of provisions of section 115 BBE of the income tax act.*

3. The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.

3. The assessee is a trader in milk, fact of which is not being in dispute. The assessee has deposited total amount of Rs.33,51,051/- in his bank account. The AO has stated this cash deposits as unexplained money under section 69A of the Act. The same has been confirmed by the Id.CIT(A).

4. The aggrieved assessee filed appeal before the Tribunal.

5. Before me, the assessee explained that the assessee has filed its return of income declaring its profit under section 44AD, and hence insistence of the Id.CIT(A) to produce books of accounts and other records is a irrelevant.

On the other hand, the Id.DR argued that the cash deposits have not been duly explained by the assessee.

6. I have gone through the cash book prepared out of the bank statements. The cash sales have been made by the assessee from 1.4.2016 to 31.3.2017, which had opening balance of Rs.8501/- , the cash sales during that period was Rs.24,20,600/-. There are cash withdrawals from the bank to the tune of Rs.4,40,800/- . The bank statement thereof clearly reveals that the cash deposits, withdrawals and transfer of amounts to various dairies were in connection with the trading of milk. The average cash sales out of the milk trade to the tune of Rs.2.50 lakhs, and keeping in view the year-long milk trading operation, it can be held that the cash deposits are out of the milk trade, and the

assessee has rightly offered the income under section 44AD of the Act, and hence, no further addition is called for on account of the said cash deposits.

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

Dictated on the Open Court, typed and pronounced on 7th October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 07/10/2024