

आयकर अपीलीय अधिकरण
कोलकाता 'बी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

श्री संजय गर्ग, न्यायिक सदस्य
एवं
श्री संजय अवरथी, लेखा सदस्य
के समक्ष
Before

**SRI SANJAY GARG, JUDICIAL MEMBER
&
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No.: 961/KOL/2024
Assessment Year: 2017-18**

***Jadwet Trading Company Private Limited.....Appellant
[PAN: AABCJ 3800 F]***

Vs.

ACIT, Circle-3(2), Kolkata.....Respondent

Appearances:

Assessee represented by: Akkal Dudhewala, AR.

Department represented by: P.P. Barman, Addl. CIT, Sr. DR.

Date of concluding the hearing : August 28th, 2024

Date of pronouncing the order : October 16th, 2024

ORDER

Per Sanjay Awasthi, Accountant Member:

This appeal is barred by limitation by 232 days. The appellant has filed condonation of delay petition, along with medical certificate in support of claim that the delay was on genuine grounds and deserves to be condoned. Some portions from the said petition deserve to be extracted:

“This is to bring to your notice that the appellate order was passed on 14.07.2023 by the Ld. CIT(A), NFAC u/s 250 of the Act for the captioned Assessment Year. Aggrieved by the impugned order, the appellant has preferred an appeal before the Hon’ble Bench of Income-tax Appellate Tribunal, Kolkata.

As per the provision of Section 253(3), appeal before the Hon'ble Income Tax Appellate Tribunal against the order u/s 250, has to be filed within sixty days from the date on which the order sought to be appealed against is communicated. Further, as per the provision of Sec. 253(5), the Hon'ble Appellate Tribunal may admit an appeal after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

In this connection, we would like to submit that our chief accountant, Mr. Balakrishnan, aged 72 years, who is entrusted with the income-tax matters of the company had suffered a heart attack in the month of August, 2023, consequent to which he was admitted in the Hospital for a few days. At the time of discharge from the hospital, he was advised complete bed rest by the doctor and he has therefore been unable to attend office from 21.08.2023 till date due to his critical health issues. Due to his absence in office from 21.08.2023, appeal against the appellate order passed on 14.07.2023 could not be filed within the due date of 11.09.2023. It was only when the Jurisdictional Assessing Officer had initiated the proceedings of recovery of outstanding demand for the relevant AY 2017-18, that the appellant company was informed that the appellate proceedings u/s 250 for the AY 2017-18 stood completed vide appellate order dated 02.01.2024 and that no appeal has been filed against the same till date. Upon being apprised of this information, the management of the appellant company immediately retrieved records from the ITBA portal and arranged the relevant papers and shared the same with the tax counsel to advise for the way forward. The tax counsel, accordingly prepared the appeal which is now being preferred before the Hon'ble Bench. An affidavit from the Director of the appellant company is enclosed along with the petition.”

1.1. In the interest of justice and considering the genuineness of the claim, this appeal is admitted for adjudication.

2. The assessee has a Mahindra Dealership and a Hindustan Unilever Ltd. C&F. It is seen that before the Assessing Officer (hereinafter referred to as Id. 'AO'), this assessee had filed details of bank accounts where cash in excess of Rs. 2 Lakh had been deposited during the demonetization period (09.11.2016 to 30.12.2016). Thereafter, the Id. AO proceeded to examine the cash deposit entries in the bank account and added an amount of Rs. 23,82,000/- u/s 69A of the Income Tax Act, 1961 (in short the 'Act') as unexplained cash deposited during the demonetization period. It is seen that the Id. AO, though admitting that in the line of business of the assessee there would be necessity of cash deposits, but also went on to record that in the first instance once

demonetization was announced then the assessee should not have accepted cash at all and secondly, doubted the genuineness of the source of cash deposit.

2.1. The ld. AO noticed that under the head "operational expenses" an amount of Rs. 12 Lakh was booked as "trip expenses". He found that such expenses were not fully vouched and thereafter, he made a disallowance of Rs. 3 Lakh on estimate basis. Aggrieved with this action of ld. AO, the appellant approached the Commissioner of Income Tax (Appeals) [hereinafter referred to as ld. 'CIT(A)']. However, it is seen that the appellant did not respond to any of the notices issued for hearing, leading to which the appeal was dismissed by the ld. CIT(A).

3. Before us, the appellant has challenged the action of the authorities below with as many as four grounds of appeal out of which grounds 2 & 3 are substantive challenging the impugned additions of Rs. 23,82,000/- u/s 69A of the Act and Rs. 3 Lakh disallowed out of travelling expenses. The grounds of appeal may be extracted as under:

"1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) was grossly unjustified in law and on facts in dismissing the appeal ex-parte.

2.(a) For that on the facts and in

circumstances of the case, lower authorities erred in adding the cash deposits to the extent of Rs.23,82,000/- during the demonetization period by way of unexplained income u/s 69A of the Act.

(b) For that on the facts and in the circumstances of the case and in law, the appellant had demonstrated before the AO, that the source of SBNs deposited by the appellant in its bank account, were out of its cash sales realized from business, which formed part of the cash in hand as per the books of accounts and in that view of the matter, the impugned addition of Rs.23,82,000/- made u/s 69A of the Act deserves to be deleted in full.

3. For that on the facts and circumstances of the case, the disallowance of travelling expenses to the extent of Rs.3,00,000/- made by the AO on estimate basis is arbitrary & untenable and thus deserves to be deleted.

4. For that the appellant craves leave to submit additional grounds and/or amend or alter the grounds already taken either at the time of hearing of the

appeal or before.”

3.1. Before us, the appellant filed a short paper book in which audited accounts for the year ended 31.03.2017, were filed along with copies of ledger showing monthly summary of cash balances, cash book for the period 01.09.2016 to 31.12.2016 and copy of ledger showing expenses under "trip expenses". The Id. Counsel for the assessee pointed out page 7 of paper book to show the cash in hand position from 01.04.2016 to 31.03.2017. The Id. AR also pointed out pages 8 to 16 of paper book which are copies of extracts from books of account denoting cash in hand. It was pointed out that between the period of November to December, 2016 there was no unusual activity in terms of debit and credit entries of cash. In fact, the Id. AR took us through the month-wise details of cash in hand, which may be reproduced as under:

	Transactions		Closing Balance
	Debit	Credit	
Opening Balance			79,18,397.48 Dr
April	24,22,084.00	23,49,040.00	79,91,441.48 Dr
May	30,14,377.00	29,06,437.00	80,99,381.48 Dr
June	12,07,757.00	5,59,751.00	87,47,387.48 Dr
July	12,34,633.00	13,61,044.00	86,20,976.48 Dr
August	20,94,786.00	20,89,125.00	86,26,637.48 Dr
September	12,10,329.00	22,74,821.40	75,62,145.08 Dr
October	19,30,996.00	15,77,663.00	79,15,478.08 Dr
November	12,77,816.00	85,51,602.00	6,41,692.08 Dr
December	8,06,942.00	2,53,749.00	11,94,885.08 Dr
January	9,27,759.00	7,93,222.00	13,29,422.08 Dr
February	20,94,717.00	19,51,673.00	14,72,466.08 Dr
March	20,35,473.00	16,51,919.00	18,56,020.08 Dr
Grand Total	2,02,57,669.00	2,63,20,046.40	18,56,020.08 Dr

3.2. Regarding the travelling expenses, the Id. AR took us through the ledger account for the same and pointed out that due to the geographical location of the dealership, considerable travel is required by the staff and hence, the payments are for purposes of business, even though there may only be hand-made vouchers in support of the claim.

3.3. The Id. D/R relied on the order of the Id. AO in this regard.

4. We have gone through the impugned order, the Id. AO's order and the documents filed and considered the arguments advanced by the Id. AR/DR. The extract from the cash in hand statement (*supra*) reveals that there is a

fairly consistent pattern of credits and debits and there is no unusual pattern visible to raise any suspicion. In fact, it is seen that the appellant has deposited Rs. 45,42,000/- on 10.11.2016 out of the cash available with him. This would be normal considering that with the announcement of the demonetization, there would be a compulsion to deposit available cash in the bank. In light of this fact, it deserves to be held that the action of ld. AO was not justified and the addition could not have been made. Accordingly, the addition of Rs. 23,82,000/- is directed to be deleted.

4.1. Regarding the second addition of Rs. 3 Lakh, out of "trip expenses", it is seen that the appellant has booked expenses ranging from Rs. 4,500/- to 7,500/- fairly regularly. It is felt that since such expenses amount to a substantial Rs. 12 Lakh then, as recorded by the ld. AO, in the absence of good evidence to justify the claim of the same as a business expense, the action of the ld. AO is upheld in principle. However, it is felt that the ends of justice would be met if a relief of Rs. 1.5 Lakh is granted on this account to leave an addition of Rs. 1.50 Lakh as being confirmed.

5. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 16th October, 2024.

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 16.10.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Jadwet Trading Company Private Limited, Tower House, Aberdeen Bazar, Port Blair, Union Territory of Andaman and Nicobar Islands, 744101.**
2. **ACIT, Circle-3(2), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata