

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, KOLKATA

BEFORE DR. MANISH BORAD, ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No. 1130/KOL/2024
Assessment Year: 2017-18

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| INCOME TAX OFFICER 3No. Government Place, (West) Kolkata-700001, West Bengal | Vs | NEPAL KUMAR Stash, GIP Colony, Jagacha, Howrah-711112, Kolkata [PAN : AINPK9169M] |
| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |

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|---------------|---------------------------|
| Assessee by : | Shri Miraj D. Shah, AR |
| Revenue by : | Shri PP Barman, Addl. CIT |

सुनवाई की तारीख/**Date of Hearing** : 03.10.2024
घोषणा की तारीख /**Date of Pronouncement** : 16.10.2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal filed by the Revenue, pertaining to assessment year 2017-18 is directed against the order passed by the Learned National Faceless Appeal Centre, Delhi (hereinafter referred to as the 'Id. CIT(A)') dated 19th March, 2024 passed u/s 250 of the Income Tax Act, 1961 ('Act'), which is arising out of the assessment order u/s 143(3) of the Income-tax Act, 1961 (the Act) vide order dated 30th December, 2019.

02. The assessee has raised following ground of appeal: -

"1. The Ld.CIT(A)-NFAC has erred in fact and circumstances of the case in deleting the addition of Rs. 1,57,99,220/- made on account of cash deposited in to bank account of assessee considered as unexplained money u/s 69A of the Act despite the fact that the assessee during the course of assessment proceedings had failed to substantiate the source of cash deposit with documentary evidences.

2. The Ld.CIT(A)-NFAC has erred in fact and circumstances on facts in deleting the addition of Rs. 1,57,99,220/- on account of cash deposit in to bank account of assessee in mentioning the unexplained money u/s 69A of the Act instead of the unexplained cash credit u/s 68 of the Act as contains in the Assessment Order. 3.

That the appellant craves leave to add, alter and/or amend any of the grounds of appeal during the course of hearing of appeal.”

03. Brief facts of the case are that the assessee is an individual engaged in the business of distribution work of sale of SIM card and coupons of Bharti Airtel Limited. Income of ₹4,78,660/- declared in the e-return for A.Y. 2017-18, dated 18th November, 2017. During the year under consideration, demonetization scheme was announced and Specified bank notes (SBN) totaling to ₹1,57,99,220/- were deposited. The ld. AO based on this information carried out the assessment proceedings and asked the assessee to explain the source of the cash deposit. The assessee claimed that the source of cash deposited is from the sale proceeds and is from the revenue of the business regularly carried out during the year. However, ld. AO was not satisfied and stated that it to be a offspring of afterthought and a cooked-up & concocted conception and invoking the provision of Section 68 read with section 115BBE of the Act made addition of ₹1,59,99,220/- and assessed income at ₹1,64,77,880/-.

04. Aggrieved assessee preferred the appeal before the ld. CIT (A) and successfully demonstrated the source of cash deposits which is from the sale proceeds from business carried out in the name of Maa Durga Enterprise a distributor of Bharti Airtel Limited. The ld. CIT (A) based on the documents filed before him, was satisfied with the source of cash deposit explained by the assessee and accordingly, granted the relief. Aggrieved Revenue is now in appeal before this Tribunal

05. The ld. DR vehemently argued supporting the order of the concerning officer and ld. counsel for the assessee therefore relied on the finding of the ld. CIT (A).

06. We have heard the rival contentions and perused the records available on record. The sole grievance of the Revenue is against the deletion of addition of ₹1,59,99,220/- made u/s 68 read with section 115BBE of the Act, alleging that the assessee has not explained the source of cash deposits in SBN during the demonetization period. We noticed that the assessee is a distributor of Bharti Airtel Limited. Out of the sale proceed of SIM Card and coupons, payments were made to Bharti Airtel Limited through RTGS system only. Turnover for the year under consideration is 7.92 crore which had further increased to 14.70 cr. and 16.70 cr. during subsequent years. Books of account are regularly audited and tax audit reports stands uploaded on the income tax portal. The Id. CIT (A) after examining the facts of the case deleted the impugned addition of ₹1,57,99,220/- u/s 69A of the Act, which read as under: -

“6. The sole issue that arises for consideration in the present appeal is the cash deposits found to have been made by the appellant in his bank account. According to the appellant, he is the sole proprietor of M/s.Maa Durga Enterprise, which is carrying on the business as distributor of Bharti Airtel Limited and the cash deposits made during the relevant period in his bank accounts were out of sale proceeds received from the customers on sale of SIM cards. In support thereof the appellant had submitted before the AO copy of the Distribution Agreement entered into with Bharti Airtel Limited, Bank Statements, Sale Register, Balance Sheet, Final Accounts including Balance Sheet, Profit and Loss Account and expenditure details with ledger copies. However, the AO held that the appellant failed to furnish the cash book and VAT returns as required and hence treated the entire cash deposit of Rs.1,64,77,880/- as unexplained u/s.69A of the Act. Aggrieved, appellant has filed the present appeal.

6.1. According to the appellant, the AO has failed to take cognizance of the details furnished during the course of assessment proceedings and had summarily rejected the evidences filed. The appellant submits that perusal of bank account statement would clearly show that immediately after the cash deposits, corresponding sums were transferred to Bharti Airtel Ltd which corroborates the contentions. The appellant further contends that in the subsequent year, i.e., AY.2018-19, similar cash deposits, of higher volumes were accepted as from out of cash sales. The appellant has furnished the copies of submissions made before the AO during the course of assessment proceedings to support the contentions that all necessary details and evidences were already available before the AO which clearly substantiated the source of cash deposits as from out of the sale proceeds. The appellant further submits that Books of accounts are duly audited and as per RBI notification, acceptance of cash on sale of SIM cards was permitted during demonetization period. It is therefore, contended that addition of the impugned cash deposits as unexplained by the AO is totally arbitrary and unwarranted on the facts of the case.



6.2. Submissions of the appellant were considered and facts on records including submissions made before the AO were also perused. It is seen that the appellant is carrying on the business as a distributor of Bharti Airtel Ltd and for the relevant period the total sales is Rs.7,92,10,012/- as per the audited final accounts and Tax Audit Report. Perusal of Bank Account statement concerned for the relevant period shows that immediately after the cash deposits, corresponding transfers have also been made on the same day to Bharti Airtel Limited which corroborates appellant's contention that the cash deposits represented Cash Sales. Further, the appellant had also filed before the AO the Sales Ledger wherefrom the AO could have very well ascertained the Cash Sale component during the relevant period. It is evident that the contentions of the appellant that the impugned cash deposits are from out of its cash sales has been summarily rejected by the AO without bringing on record any tangible evidence or inconsistency in the evidences furnished during the course of assessment proceedings. Considering the above, the impugned addition of Rs.1,57,99,220/- under Section 69A cannot be sustained on facts and in law and is therefore, directed to be deleted.

7. In the result, appeal is "Allowed".

07. The above facts narrated by Id. CIT (A) in his finding stands uncontroverted by the DR and therefore, considering the fact that assessee is working under a distribution agreement in Bharti Airtel Limited, source of cash deposit is the cash sales of SIM Card / coupons of Bharti Airtel Limited. Cash collected from the cash sales has been deposited in the bank account regularly. The assessee has carried out this business activity in subsequent years and also has effected increased sales. We therefore, fail to find any infirmity in the order of the finding of Id. CIT (A) which has been arrived on after examining the books of accounts, sales ledger, cash book, audited financial statements, etc. which explains the source of alleged cash deposit. The effective grounds of appeal raised by the Revenue are dismissed.

08. In the result, the appeal of the Revenue is dismissed.

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

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 16.10.2024

*SS, Sr.Ps



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata