

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'A', CHANDIGARH

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 155/CHD/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Bhanu Pratap Jain, Proprietor, M/s Pehal International, B-31, Phase V, Focal Point, Ludhiana	Vs. बनाम	The ITO, Ward VII(1), Ludhiana
स्थायी लेखा सं./PAN No: AGZPJ0090L		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(PHYSICAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, CA

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 08.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 16.10.2024

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 21.12.2023 of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. Grounds of appeal taken by the Assessee are as under: -

1. *That order passed u/s 250 of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi is against law and facts on the file in as much as he was not justified to uphold the addition of Rs. 48,08,268/- made by the ld. Assessing Officer on account of alleged unexplained cash deposits in the bank account by resort to the provisions of Section 68 of the Income Tax Act, 1961.*
2. *That the Learned CIT(A) gravely erred in upholding the impugned addition by simply rejecting the import of detailed submissions made by the appellant.*
3. Brief facts of the case as per details filed by the Counsel of the Assessee are as under: -

1. The present appeal has been filed against the order passed by the Learned Commissioner of Income Tax (Appeals) upholding the addition of Rs. 48,08,268/- made by the Assessing Officer on account of alleged cash deposits in the bank account by resort to the provisions of Section 68 r.w.s. 115BBE of the Income Tax Act, 1961.
2. The Assessee is an individual and is engaged in the business of dealing in yarn. The Assessee was a sole proprietor of M/s Pehal International and was a Partner in M/s Srishti Wool Combers. Return of income for A.Y. 2017-18 was filed on 31.10.2017 declaring income at Rs. 3,83,990/-. Assessment u/s 143(3) was framed vide order dated 29.12.2019 computing total income at Rs. 51,92,260/-. The Assessing Officer made a total addition of Rs.

48,08,268/- on account of cash deposit in the bank during demonetization period. The detailed queries were made by the Assessing Officer during the assessment proceedings and the Assessee had duly complied with the various queries raised by the Assessing Officer. Copies of detailed submissions made vide letters dated 02.12.2019 and 14.12.2019 along with various details were filed. The details of cash sales made at Rs. 49,78,016/- between 01.11.2016 and 08.11.2016 have also been placed on record. The Assessee maintains complete quantitative details as is apparent from perusal of complete quantitative details filed vide tax audit report placed on pages 11 and 12 of the paper book. Copy of stock register has also been filed. The Assessee maintains complete set of accounts which are duly audited. The Assessing Officer, while framing assessment, has not pin-pointed any defect in the maintenance of the books of accounts. In these circumstances, there was no justification on the part of the Assessing Officer to make the impugned addition and the Learned Commissioner of Income Tax (Appeals) was completely unjustified in upholding the said addition. The issue has been discussed by the Learned Commissioner of Income Tax (Appeals) at paras 6.1 to 6.5 of his order. The addition has been upheld merely on surmises and conjectures. The observation of the Learned Commissioner of Income Tax (Appeals) that cash deposit of Rs. 49,50,000/- can not be explained through cash sales is not based on any cogent reason.

While framing assessment, as already submitted above, the sales made by the appellant have been duly accepted.

4. The Id. CIT(A) in his appellate order has given findings on this issue as under:-

“6.4 During the appellate proceedings, the appellant has stated that deposit of cash at regular intervals is his trade practice and the cash deposited during demonetization was out of cash in hand as on 08.11.2016. The appellant further states that it maintains regular books of accounts which are duly audited and the books of accounts have not been rejected by the A.O. These submissions of the appellant do not have any merit, in view of the cash sale trend noted by the A.O., wherein the entire cash sales of Rs. 49,78,016/- have been booked only in the week prior to demonetization. When there are no other cash sales, the claim that the appellant receives sale proceeds in cash and deposits the same in cash at regular intervals is not borne out by the facts of the case. During the appeal proceedings, he appellant has submitted details of cash sales made and cash deposited with respect to the partnership concern Srishti Wool Combers (SWC). However this data belongs to an entirely different tax entity and even though the appellant may be a partner in SWC, the trade patterns of SWC cannot be relied upon to establish the trade patterns of M/s Pehal International, especially when the actual figures of cash sales of M/s Pehal International are available.

6.5 In view of the above discussion, it is held that the appellant has failed to establish the genuineness of the cash sales affected during 1.11.2016 to

8.11.2016 amounting to Rs. 49,78,016/-. Thus, the cash deposit of Rs.49,50,000/- cannot be explained through cash sales. After allowing set off for cash on hand as on 1.11.2016 of Rs. 1,41,732/-, the sum of Rs.48,08,268/- thus represents unexplained cash deposit in the bank account, which is liable to be taxed u/s 68 as it appears as unexplained credit entry in the bank ledger forming parts of books of accounts. Books of accounts are not required to be rejected for making an addition u/s 68. Thus the addition of Rs. 48,08,268/- u/s 68 is hereby upheld and all the grounds of appeal (as per Form no. 35 and as per submissions dated 04.12.2023) are hereby dismissed.”

5. During the proceedings before us, ld. Counsel for the Assessee relied upon an order in the of ‘Smt. Charu Aggarwal Vs. DCIT’, passed by the Chandigarh Bench of the ITAT reported in 140 taxmann.com 588. In this Order, the Coordinate Chandigarh Bench of the Tribunal has given its findings on cash sales and on the addition made u/s 69 of the Act at under:-

“Cash credit (Unexplained cash deposits) - Assessment year 2017-18 - Certain cash was deposited during post-demonetisation in account of assessee, engaged in resale of jewellery, diamond etc. - Assessing Officer observed that there were two sets of books of account, i.e., one in computer of accountant and another in pen drive of accountant with different sales figures for October 2016 and assessee having failed to furnish documentary evidence regarding source of cash deposits in its bank accounts, addition was made to income of assessee - However, it was found that assessee was maintaining complete stock tally, sales were

recorded in regular books of account and amounts were deposited in bank account out of sale proceeds - Nothing was brought on record to substantiate that cash obtained by assessee from sales which reduced stock of assessee was utilized elsewhere - Cash sales made during month of October, 2016 were in line of cash sales in earlier years and equal to sales in month of July, 2016 - Opening stock, purchases and sales and closing stock, declared by assessee were not doubted - Cash deposited post-demonetization by assessee was out of cash sales which had been accepted by Sales Tax/VAT Department and not doubted by Assessing Officer - There was sufficient stock available with assessee to make cash sales - Whether therefore, sales made by assessee out of existing stock were sufficient to explain deposit of cash (obtained from realization of sales) in bank account and could not have been treated as undisclosed income of assessee and accordingly, impugned addition made by the Assessing Officer was not justified – Held, Yes.”

6. The Id. Counsel for the Assessee also relied upon another order on the issue of cash deposit in bank of the cash sales passed by Chandigarh Bench in the case of 'Rachit Aggarwal vs. ITO', reported in 162 taxmann.com 49. In this case, the Coordinate Bench of the Tribunal has held as under;-

“Section 68 of the Income-tax Act, 1961 - Cash credit (Bank deposit) - Assessment year 2017-18 - Assessee was engaged in wholesale trading of karyana goods, specifically sugar, khandsari, jaggery, cereals, etc. - Business of assessee was very old and as a trend of trade, assessee in routine and every year received cash against cash sales - Same was deposited in current account with bank and the amount in bank

was used for paying off creditors - Assessing Officer found that cash deposits made in bank account of assessee remained unexplained and, accordingly, he made addition of such cash deposits to income of assessee under section 68 - It was noted that cash deposit in bank on account of cash sales and cash realizations from debtors was a normal feature of assessee's business and that cash deposit figures of October and November were a little higher due to cyclic variations, mainly on account of festivals and marriage season in Northern India during that time - It was also noted that cash deposits in November mainly came from opening cash in hand which was duly supported by fact that assessee throughout year maintained corresponding cash in hand balances on every first day of preceding months of financial year - Whether, since cash deposits made in current bank accounts of assessee were cash sales/cash realization from trade debtors shown in tax audited accounts and same were not found to be incorrect, it was legally not permissible to add same to income of assessee as unexplained cash credit under section 68 - Held, yes - Whether therefore addition as made by Assessing Officer and confirmed by Commissioner (Appeals) was to be cancelled - Held, yes.”

7. The ld. DR relied mostly on the order of the Assessing Officer and appeal order passed by the ld. CIT(A).

8. We have considered the findings given by the Assessing Officer in the assessment order as well as by the ld. CIT(A) in the appeal order. We have also considered the submissions filed by the ld. Counsel for the Assessee on record during the proceedings before us. We have considered the arguments of the ld. DR before us and we

find that the facts of the case are clearly covered by findings given by the Coordinate Chandigarh Bench of the Tribunal in the cases cited above, i.e., ‘Smt. Charu Aggarwal vs. DCIT’ and ‘Rachit Aggarwal vs. ITO’, and we are of this view that nothing new has been brought on record by the Revenue to rebut the findings given by the Coordinate Bench of ITAT, on the same issues, in aforesaid cited cases, therefore, we have no reason to disturb the ratio already decided by the Coordinate Bench of ITAT Chandigarh on the same issue. Accordingly, Assessee’s appeal on this ground is allowed.

9. Ground No. 2 is general in nature.

10. In the result the appeal is allowed.

Order pronounced on 16.10.2024.

Sd/-

(A. D. JAIN)
Vice President

Sd/-

(KRINWANT SAHAY)
Accountant Member

“आर.के.”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar