



।आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A" :: PUNE

BEFORE SHRI SATBEER SINGH GODARA,
JUDICIAL MEMBER, AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1182/PUN/2023

निर्धारण वर्ष / Assessment Year: 2017-18

Mohammad Farooque Abdul Majeed, Coop Industrial Compound, Quadwai Road, At Post – Malegaon, Dist, Nashik – 423203. PAN : AAQPM7490N	V s	The Assistant Commissioner of Income Tax, Circle Malegaon, Malegaon.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Pramod S Shingte – AR
Revenue by	Shri Ramnath P Murkude - DR
Date of hearing	08/10/2024
Date of pronouncement	22/10/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee directed against the order of Id.Commissioner of Income Tax(Appeal)[NFAC] dated 13.09.2023 under section 250 of the Income tax Act 1961. The Assessee has raised the following grounds of appeal :

“1. On the basis of the facts and in the circumstances of the case and as per law, the CIT (A) is not justified in confirming the addition



to the extent of Rs. 34,30,812/- on account of cash deposited in bank account.

2. *On the basis of the facts and in the circumstances of the case the CIT (A) is not justified in granting only partial relief and confirming the addition to the extent of Rs.34,30,812/- on account of cash deposited in bank account, by holding that out of the said cash deposits of Rs.67,86,500/- the appellant has paid only Rs.33,55,688/- to M/s. Sapat International, particularly when almost entire cash deposits in the bank account are paid to M/s. Sapat International for purchase of goods.*

3. *On the basis of the facts and in the circumstances of the case the CIT (A) is not justified in confirming addition on the basis of incorrect facts, suspicious and prejudicial mind. Therefore, the same may please be deleted.*

4. *On the basis of the facts and in the circumstances of the case and as per law the CIT (A) is not justified in confirming the addition of Rs.34,30,812/- by treating the said cash deposits as unexplained money, when the complete details of asset, liabilities and expenses, etc. are provided in the form of Audited Financial Statement, which are not rejected by the AO.*



5. *On the basis of the facts and in the circumstances of the case and as per law, the CIT (A) is not justified in confirming the addition of Rs.34,30,812/- on account of cash deposited in bank account by holding that the appellant has modified the purchase, sales and cash book to justify the cash deposited in Bank Account post demonetisation when the books of accounts of the appellant are audited u/s 44AB of the act, more particularly when neither any defect is pointed out in the books of accounts nor the same are rejected by the AO.*

6. *The appellant craves for the addition to, deletion, alteration, modification of the above grounds of appeal.”*

Brief facts of the case :

2. The Appellant is an individual, engaged in Trading Business of Sapat Tea powder on Wholesale basis since last 40 years under the name style M/s.JAY HIND KIRANA STORE at Quidwai road, Malegaon (NASHIK). The Appellant has filed return of income on 23/10/2017 declaring total income of Rs. 11, 98,520/-. The case of the appellant was selected under CASS for Complete Scrutiny. The Assessing Officer has assessed the income of Rs.79,85,020/- by making addition of Rs.67,86,500/- u/s.69A on account of unexplained cash deposit in Janta Co-operative Bank



Ltd., Malegaon during demonetization period and completed assessment u/s. 144 of the Act.

2.1 The Assessing Officer in the assessment order in paragraph 4 analysed the sales of the assessee as under :

<i>Particulars</i>	<i>Amount in INR</i>	
<i>Average monthly Cash Sale for F.Y. 2016-17</i>	<i>Rs. 87,88,200/-</i>	
<i>Average monthly Cash Sale for F.Y. 2016-17 (excluding the cash sale of October' 2016)</i>	<i>Rs. 78,51,356/-</i>	
<i>Hike in cash sale during the Month of Oct' 16 over the average annual sale</i>	<i>(Rs. 1,90,93,480/- - Rs.87,88,200/-) = Rs. 1,03,05,280/-</i>	<i>@117.26%</i>
<i>Hike in cash sale during the Month of Oct' 16 against the average sale for 11 months of F.Y. 2016-17 (excluding the month of Oct' 16)</i>	<i>(Rs. 1,90,93,480/- - Rs.78,51,356/-) = Rs. 1,12,42,124/-</i>	<i>@143.19%</i>

It is ample clear from the above shown analysis that the assessee has accounted cash sale of Rs.1,90,93,480/- in the month of October' 2016, just the preceding month before the month of demonetization, which is found to be almost double to the cash sale of rest of 11 months of the year.

2.2 Accordingly, the AO has made an addition of Rs.67,86,500/- under section 69A of the Act.



3. Ld.CIT(A) partly confirmed the addition. Aggrieved by the order of the ld.CIT(A), assessee filed appeal before this Tribunal.

Submission of ld.AR :

4. Ld.AR filed one factual paper book and one legal paper book. Ld.AR submitted that the addition made is based on surmises and conjectures. Ld.AR took us through the monthly sale chart for F.Y.2014-15, 2015-16 and 2016-17 which is at page no.27 & 28 of the paper book. Ld.AR explained that every year during Diwali i.e.October/November assessee's sales are more as compared to other months. During F.Y.2016-17 also, Diwali was in the month of October, therefore, the sales were more in the month of October just like earlier years. Assessee had submitted copy of the cash book during assessment proceedings, but AO has failed to consider it. Assessee had filed all the necessary details during the assessment proceedings and before the ld.CIT(A). Though Ld.CIT(A) had given part relief, however, part of the addition is sustained by ld.CIT(A) on wrong facts and hence needs to be deleted.



Submission of Id.DR :

5. The Id.DR for the Revenue relied on the order of the Assessing Officer and Id.CIT(A).

Findings & Analysis :

6. We have heard both the parties and perused the records. In this case, AO has made addition of Rs.67,86,500/- which was cash deposited by the assessee in Janata Co-operative Bank, Current Account on 11.11.2016 and 15.11.2016 in the form of Demonetized Currency.

6.1 It is a fact that assessee is a Wholesaler. He is a Wholesaler for Sapat Brand Tea. During the assessment proceedings, assessee had explained that the amount deposited was out of the Opening Cash Balance and Sales made. However, AO rejected assessee's submission and made the addition. We have perused the monthly cash sales filed by assessee for F.Y.2014-15, 2015-16 and 2016-17 which is at page no.27 & 28 of the paper book.

Month & Year	Cash and Debtors realized
October, 2014	Rs.1,51,64,198/-
October, 2015 November, 2015	Rs.1,03,15,998/- Rs.1,80,11,175/-
October, 2016	Rs.1,90,93,483/-



6.2 Thus, it is observed from the above table that during the month of October & November, there has been substantial increase in the Cash Sales of the assessee in all the three Financial Years. The assessee claimed that these were the months of Festivals. Therefore, AO's allegation that assessee has shown inflated cash sales during October, 2016 to deposit his unaccounted cash is unsubstantiated. Because, consistently there is increased cash sales as compared to other months. It is also a fact that assessee's Books of Accounts are audited. The Audit Report along with Profit and Loss Account, Balance Sheet and its Annexures were filed before the Assessing Officer. Assessing Officer has not pointed any defect in these Books of Accounts or Audit Reports. Ld.CIT(A) has also not pointed out any defect in the Audit Report. Assessee had also filed copy of all the bank statements before the Assessing Officer. We have perused copy of the Bank Statement of Janata Co-operative Bank Limited, filed by assessee for the F.Y.2015-16, F.Y.2016-17. It is a Current Account in the name of Jaihind Kirana Stores. On perusal of the said Bank Statement, it is observed that assessee has been regularly depositing cash. For example, on 04.04.2015 Assessee deposited Rs.13,51,000/- and



Rs.50,000/- cash; on 04.04.2015 assessee has deposited cash twice in the same day. Then, on 06.04.2015 Assessee has deposited Rs.7,09,000/-; on 07.04.2015 Assessee has deposited Rs.12,24,000/-. Similarly, on every alternate day there were transactions of cash deposits made by the assessee.

7. Now coming to the F.Y.2016-17 on 02.04.2016, there were cash deposits on three occasions in a day i.e. Rs.8,40,000/-, Rs.2,00,000/- and Rs.2,60,000/- totaling to Rs.13,00,000/-. Similarly, on 05.04.2016, there were cash deposits of Rs.7,79,000/- and Rs.42,000/- totaling to Rs.8,21,000/-. On 07.04.2016 cash deposits of Rs.9,63,000/- and Rs.2,30,000/-. Thus, there were regular cash deposits even before the Demonetization. Assessee had submitted before the AO details of monthly cash sales, details of monthly purchases. Assessing Officer has not doubted Assessee's purchases or sales. The entire sales and purchases are reflected in the Profit and Loss Account and AO has not brought out on record any evidence to rebut the assessee's claim. AO has merely made addition based on surmises and conjectures.



7.1 In these facts and circumstances of the case, AO's allegation that cash deposited on 11.11.2016 and 15.11.2016 are out of unaccounted sales is baseless. We have already reproduced the details of cash sales shown by the assessee much before the Demonetization. Therefore, in these factual background, there is no reason to doubt the cash deposits made on 11.11.2016 and 15.11.2016. In these facts and circumstances of the case, we are convinced that the cash deposited on 11.11.2016 and 15.11.2016 amounting to Rs.67,86,500/- was out of regular sales of the assessee. Therefore, AO is directed to delete the addition of Rs.67,86,500/-. Accordingly, grounds of appeal raised by the assessee are allowed.

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

Order pronounced in the open Court on 22nd October, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd Oct, 2024/ SGR*



आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.