

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 2933/MUM/2024
Assessment Year: 2017-18**

Dasharath Vitthal Khedekar,
Gala No. 889, APMC Fruit
Market, Turbhe,
Navi Mumbai-400705.

Vs.

National Faceless Appeal Centre
Income Tax Officer, Ward 28(1)(3),
327, 3rd floor, Tower No. 6, Vashi
Railway Station, Commercial
Complex, Vashi,
Navi Mumbai-400703.

**PAN NO. ANIPK 9257 A
Appellant**

Respondent

Assessee by : Mr. Ajinkya Vaishampayan
Revenue by : Mr. R.R. Makwana, Sr. DR

Date of Hearing : 15/10/2024
Date of pronouncement : 22/10/2024

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the assessee against order dated 30.03.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2017-18, raising following grounds:



1] *The learned CIT(A) erred in confirming the addition of Rs.1,40,48,200/-u/s 69A r.w. 115BBE on account of cash deposited in the bank account on the ground that the assessee had failed to prove the sources of the said cash deposited and hence, the addition was rightly made by the A.O.*

2] *The learned CIT(A) erred in holding that the assessee had concocted his turnover figures to justify the cash deposit in the bank account and hence, the addition was rightly made by the learned A.O.*

3] *The learned CIT(A) erred in not appreciating that the cash deposited in the bank account was out of the regular sales made by the assessee and hence, there was no reason to make any addition of the said amount as an unexplained investment u/s 69A r.w.s. 115BBE of the Act.*

4] *The learned CIT(A) erred in not appreciating that in the original return of income filed by the assessee, the turnover was not correctly reported and the said mistake was corrected during the asst. proceedings and hence, there was no reason to hold that the assessee had failed to explain the sources of the cash deposited in the bank account and accordingly, the addition made may kindly be deleted.*

5] *The learned CIT(A) erred in not appreciating that the assessee had submitted various details to prove that the cash deposited in the bank account was out of his regular cash sales and therefore, the addition made u/s 69A r.w.s. 115BBE is not justified and the same may kindly be deleted.*

2. Briefly stated, facts of the case are that the assessee filed its return of income on 02.02.2018 declaring total income at Rs.4,89,960/-. The return of income filed by the assessee was selected for scrutiny and statutory notices under the Income-tax Act, 1961 (in short 'the Act') were issued and complied with. The Assessing Officer observed cash deposit of Rs.1,40,48,200/- in the bank account of the assessee maintained with Deccan Merchants Co-op. Bank Ltd. The Assessing Officer further noticed that in the return of income filed, the assessee had offered turnover of Rs.55,88,570/- for the year under consideration. As total cash deposits being more than the turnover of the assessee, the



Assessing Officer asked the assessee to produce books of accounts. On verification of the sale register, the Assessing Officer observed total sale of Rs.1,69,31,409/- only. But in the profit and loss account submitted by the assessee turnover of Rs.2,65,15,554/- was recorded. The contention of the assessee were not accepted and the Assessing Officer held entire cash deposit of Rs.1,40,48,200/- as unexplained money in terms of section 69A of the Act and accordingly in the assessment order passed u/s 143(3) of the Act on 19.11.2019, he made addition of Rs.1,40,48,200/-.

3. On further appeal, the Ld. CIT(A) upheld the addition observing as under:

“Aggrieved, assessee is in appeal.

It is noted that in his ITR for the A.Y. under consideration, the assessee had offered turnover of Rs.55,88,870/-. When confronted with the cash deposits being more than the turnover shown in the ITR, assessee submitted that the turnover was wrongly shown in his ITR and claimed that his turnover was actually Rs.2,65,15,554/-. It is clear from the facts that the assessee is concocting figures upon being confronted with his cash deposits. Assessee has also submitted in written submissions that no books of accounts were being maintained by him. The assessee has thus failed to produce any documentary evidence in support of his claim that the cash deposit has been made out of cash sales.

Accordingly, grounds of appeal are hereby dismissed.

As a result, the appeal is dismissed.”

4. Aggrieved, the assessee is in appeal before the Tribunal raising the grounds as reproduced above.



5. We have heard rival submission of the parties and perused the relevant material on record. The Assessing Officer has made addition for the amount of Rs.1,40,48,200/- appearing in the bank account of the assessee as cash deposits for the reason that turnover of the assessee in the return of income was reported only Rs.55,88,870/-. The Assessing Officer also noted in the sales register also the total sales of Rs.1,69,31,409/- were only recorded. Before us, the Ld. counsel for the assessee submitted that the assessee was not much literate and he reported his entire turnover of Rs.2,65,15,554/- to the person who was maintaining books of account but he mistakenly only reported turnover of Rs.55,88,870/- in the return of income filed. The Ld. counsel submitted that in the profit and loss account and the books of accounts produced during the course of the assessment proceedings, the turnover of Rs.2,65,15,554/- was recorded. But as the period for revsing the return of income had already expired, the assessee could not revise the return of income. He submitted that mistake pertains mainly to the person who was looking after the filing of return of income. The Ld. counsel before us submitted that the assessee has shown turnover of more than Rs.2 crores in earlier assessment years which supports the case of the assessee that inadvertently lower turnover has been shown for the year under consideration. The Ld. counsel also submitted that the assessee will file necessary documents indicating complaint filed against the person who had filed return of income for the relevant year. The Ld.



counsel submitted that if matter is restored back to the Assessing Officer, the assessee would substantiate that in prior years turnover of more than Rs. 2 crores was shown in the return of income. In view of the facts and circumstances of the case, we feel it appropriate to restore the issue back to the file of the Assessing Officer for providing one more opportunity to the assessee for justifying that turnover of the assessee was more than Rs. 2 crores in regular course of business and by mistake less amount was reported in the return of income. The grounds of appeal of the assessee are accordingly allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22/10/2024.

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 22/10/2024
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai