

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "G", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,

AND

SHRI YOGESH KUMAR US, JUDICIAL MEMBER

ITA NO. 993/Del/2024		
A.Y.R. : 2017-18		
M/S SAXON FLUID SEALING DEVICES, SHOP NO. 102, BHERA ENCLAVE, GUPTA PLAZA, PASCHIM VIHAR, DELHI – 110 063 (PAN: AAMFS9731J)	VS.	INCOME TAX OFFICER, WARD 45(7), NEW DELHI
(APPELLANT)		(RESPONDENT)

Appellant by : Shri Mukul Gupta, Adv.
Respondent by : Ms. Shashi Kajle, Sr. DR.

Date of hearing : 28.10.2024
Date of pronouncement : 28.10.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 11.01.2024, relating to assessment year 2017-18 on the following grounds:-

1. That the order passed by the Ld. CIT(A) and AO is bad in law and against the facts of the case.
2. That the AO erred in invoking provisions of section 68 of the Act.
3. That the AO erred in invoking provisions of section 115BBE of the Act.

4. That the Ld. CIT(A) erred in sustaining the addition made by the AO amounting to Rs. 30,00,000/- u/s. 68 of the Act on account of cash deposit in the bank.
5. That Ld. CIT(A) erred in sustaining the addition made by the AO without considering the fact that the AO passed the order without independent application of mind.
6. That the Ld. CIT(A) erred in passing the order without providing an opportunity of being heard.
7. That the AO erred in initiating penalty u/s. 271AAC of the Act.

2. The brief facts of the case are that the assessee had filed its return of income for A.Y. 2017-18 on 31/10/2017 declaring total income at Rs. 46,23,890/-. The case of the assessee was selected for scrutiny under CASS for verification of cash deposits during demonetization period. On the basis of information available and considering the bank account statement received from the bank in response to notice issued u/s 133(6) of the I.T. Act, the A.O. found that the assessee had deposited cash of Rs. 30,00,000/- during the demonetization period in his bank account. The assessee was asked to explain the same. The assessee stated that the cash deposit of Rs.30,00,000/- was made out of accumulated cash balance withdrawn from the bank and cash receipts from partners. Further, assessee stated that these cash were received from the partners and cash withdrawn from bank gets accumulated to Rs. 32,35,677/- on 08/11/2016 and out of this cash, Rs.30,00,000/- is deposited during demonetization period. The above reply filed by the assessee was not found to be satisfactory since, there was no cash deposits before the demonetization and no explanation was provided to keep such huge cash in hand. Therefore, the AO made an addition of Rs.30,00,000/- on account of unexplained cash deposits / credits appearing in the bank account u/s. 68 of the Act.

3. Against the above order, assessee appealed before the Ld. CIT(A). Ld. CIT(A) noted that there was no response to the notice by the assessee, hence, he dismissed the assessee's appeal.

4. Against the Ld. CIT(A)'s order, assessee is in appeal before us.

5. At the time of hearing, Ld. Counsel for the assessee submitted that no notice from the CIT(A) was received. Hence, no submission was made to the Ld. CIT(A). Hence, he prayed that an opportunity may be given to the assessee before the Ld. CIT(A) to canvass its case.

6. Per contra, Ld. DR did not have any objection to the aforesaid proposition made by the Ld. AR for the assessee.

7. After considering the aforesaid, we are of the considered view, that interest of justice will be served, if the issues in dispute are remitted back to the file of the Ld. CIT(A) with the directions to consider the same afresh, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.

8. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 28/10/2024.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar