

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Waseem Ahmed, Accountant Member and
Shri Soundararajan K., Judicial Member

ITA No. 963/Coch/2022
(Assessment Year: 2017-18)

Muhammed Suneer Cochin Distributor Near private Bustand Aluva, Ernakulam 683101 [PAN: BBYPS9390F]	vs.	ACIT, Cricle - 1 Aluva
(Appellant)		(Respondent)

Appellant by:	Shri P.M. Veeramani, CA
Respondent by:	Smt. Girly Albert, Sr. D.R.

Date of Hearing:	30.09.2024
Date of Pronouncement:	21.10.2024

ORDER

Per Bench

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 28.10.2022 for Assessment Year (AY) 2017-18.

2. The only issue raised by the assessee is that the learned CIT(A) erred in confirming the addition made by the Assessing Officer (AO) for Rs. 11,32,500/- representing the cash deposits during the demonetization period.

3. The assessee in the present case justified the deposits of cash during the demonetization period amounting to Rs. 41,32,000/- out of cash available on hand as on 09.11.2016 of Rs. 41,34,683/- only. However, the AO observed that there is a sudden increase in the cash on hand immediately before the demonetization period which is not commensurate in comparison to the case

immediately in the preceding year. Likewise, the AO also found that there is a short fall of the cash on hand after the demonetization period. Thus, the AO worked out the average cash on hand as on 08.11.2016 based on availability of cash in hand of the assessee in the earlier year and the later period after demonetization period amounting to Rs. 23,00,000/- only. Thus, the AO treated the excess amount of cash deposits amounting to Rs. 18,32,000/- as unexplained income of the assessee u/s 69A of the Income Tax Act, 1961 and added the same to the total income of the assessee. On appeal, the learned CIT(A) allowed the ground of the assessee in part by observing as under: -

“7. Ground no. 2 & 3 of the appeal are against addition of Rs.18,32,000/- u/s 69A of the Act on account of cash deposits during the demonetization period. The appellant has deposited Rs. 41,32,000/- as cash during the demonetization period. As per the appellant the cash on hand on 09.11.2016 was Rs.41,34,683/- but AO considered the average monthly cash balance available at Rs.23,00,000/-, resulting in addition of Rs. 18,32,000/-. The appellant has stated that the cash deposited in bank represented sales which is already considered as income and by making an addition of the same u/s 69A has resulted in duplication. The AO has considered estimated amount of the cash balance. The AO has taken average monthly amount of cash in hand however the issue is cash in hand on 09.11.2016 which as per the appellant is Rs.41,34,683/-. The AO has not given any reasons for not accepting the figure of cash in hand of Rs.41,34,683/-. The appellant has also not strengthened its claim that how the cash available on 09.11.2016 was not Rs.41,34,683/-. The cash availability subsequent to demonetization was reduced substantially for the month of December onwards. AO has taken figures of these months also to compute the average monthly cash in hand, which is not the correct approach. AO should have tried to make a case, that why the cash in hand shown at Rs.41,34,683/- by the appellant as on 09.11.2016 is not acceptable. AO in para 5.2 has stated that cash in hand in the last 2 months was Rs. 12,23,140/- and Rs.1,03,196/- respectively. If only the figures of the last 2 months are not considered then average for 10 months of the year comes to 26.3 lakh. Considering decrease in cash availability in December and January also, it will be reasonable to estimate the monthly average of cash in hand in for 8 months (i.e., upto 09.11.2016) at Rs. 30 lakhs. It will result in addition of Rs.11,32,000/- only as against Rs. 18,32,000/- made by the AO. The grounds of appeal are 'Partly Allowed'.“

4. Being aggrieved by the order of the learned CIT(A) the assessee is in appeal before us.

5. The learned A.R. before us filed two sets of paper books running from pages 1 to 70 and 1 to 46 and contended that the availability of cash was justified by the assessee based on the cash book placed on pages 20 to 34 of the second paper book. It was also submitted that the cash in hand as on 09.11.2016 was arising out of the sales which were duly reported in the KVAT returns. All these details were duly made available during the proceedings before the authorities below. None of the authorities below has pointed out any defect either in the cash book or in the KVAT returns filed during the proceedings. Thus, the learned A.R. submitted that no addition in the given facts and circumstances is warranted on account of cash deposits during the demonetization period.

6. On the other hand, the learned Sr. DR vehemently supported the orders of the authorities below.

7. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the cash shown by the assessee as on 09.11.2016 was duly reported in the cash book placed on record which is arising out of the cash sales supported by KVAT return. These documents being cash book and KVAT return have been duly accepted by the Revenue without pointing out any iota of defect, which are sufficient to justify the source of cash on hand with the assessee. In fact, we are of the view that the authorities below before drawing any adverse inference against the assessee ought to have verified the detail about the availability of cash as reported in the cash book corresponding to sales made to the parties. But no defect has been pointed out. Accordingly, we are not convinced with the findings of the learned CIT(A) and accordingly set aside his order with the direction to the AO to delete the addition made by him. Hence the ground of appeal of the assessee is hereby allowed.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 21st October, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(Soundararajan K.)
Judicial Member

Sd/-
(Waseem Ahmed)
Accountant Member

Cochin, Dated: 21st October, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

Assistant Registrar
ITAT, Cochin