

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1382/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

M/s. K T M Maligai 13, Diamond Jubilee Building, Mylam, Trichy -620 008.	बनम/ Vs.	DCIT Circle-1(1) Trichy.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAAFK-4143-J		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri N. Arjun Raj (Advocate)-Ld.AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Ashwin D Gowda (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	24-10-2024
घोषणा की तारीख / Date of Pronouncement	:	06-11-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of an order passed by Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 27-03-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 143(3) of the Act on 31-12-2019. The grounds raised by the assessee read as under:-

1. The order dated 27.03.2024 of the Learned CIT(A) National Faceless Appeal Centre (NFAC) in ITA DIN & Order No: ITBA/NFAC/S/250/202324/1063483306(1) for the Assessment year AY 2017-2018 is contrary to facts, opposed to law and untenable.

2. The CIT-(A), NFAC failed to follow the Standard Operating Procedure as laid out by the CBDT in the instruction No.03/2017.
- 2.1 The Ld AO failed to follow the spirit of the instruction No.4/2017 and failed to follow the instructions of CBDT on Operation Clean Money Assessments
3. The Ld CIT-(A) erred in reproducing the assessment order and following the same without any basis, exhibiting non-application of mind on the strong grounds and supportive explanations on facts submitted which surrounds the circumstances of the case.
4. The Learned CIT-(A) erred in making the addition on account of cash deposited in the bank account alleging the same to be income chargeable to tax u/s 69A without appreciating the facts of the case and the scope of provisions of above section especially when it is beyond doubt that the deposits were trade receipts dully accounted for in the regular books.
- 4.1 The Learned CIT (A) erred in making the addition in respect of cash deposited in the bank account u/s 69A which were represented by Sale of groceries duly accounted in the books of account and in any case, addition could not be made in respect of cash collected from trade receipts which in the appellants case was a compulsion, in view of clear instructions No.03/2017 of CBDT in this regard.
5. The learned Assessing officer erred in adding the cash deposits collected from the sale of Groceries and added the said Cash which is accounted as Sales, the proceeds of which were deposited in cash during the demonetization period due to trade compulsion in view of the nature of goods traded and the need of the public.
6. The Ld CIT-(A) and Ld.AO further grossly erred in not considering the established business activity of the appellant as regards to the cash collection from sale of groceries as in earlier years and subsequent years and month on month basis.
7. The Ld CIT -(A) grossly erred in making addition of the trade receipts as unaccounted cash deposit u/s 69A and by this, making the appellant to suffer double addition of the same amount one is trade receipts already accounted and other the alleged addition made u/s 69A in the Assessment order
8. The Learned CIT-(A) erred in applying provisions of Section 115BBE of the Act in the facts and circumstances of the case of Appellant and determining the tax-liability as per the aforesaid section without appreciating that provisions of section 69A were not applicable in the facts of the case and, therefore. provisions of section 115BBE of the Act could not be invoked.

As is evident, the sole issue that arises for our consideration is addition made by Ld. AO u/s 69A for cash deposited by the assessee during demonetization period.

2. The Ld. AR, drawing attention to the documents, advanced arguments and submitted that the cash proceeds were sourced out of sales proceeds and therefore, no addition could be made. Reference has been made to various judicial decisions, the copies of which have been placed on record. The Ld. Sr. DR also advanced arguments and supported the impugned addition. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Proceedings before lower authorities

3.1 The assessee being resident firm is stated to be engaged in wholesale and retail trade of grocery items and allied products. It transpired that the assessee deposited cash of Rs.521.29 Lacs during demonetization period the source of which was stated to be sale proceeds of traded items. In support, the assessee furnished bank account statement and cash book for this financial year. It was noted by Ld. AO that cash of Rs.137.17 Lacs was deposited in Specified Bank Notes (SBNs) during demonetization period.

3.2 The Ld. AO held that the assessee could not accept demonetized currency from 09-11-2016 onwards and SBNs would cease to be a legal tender. The assessee was not in exempted category as notified by RBI. Therefore, the deposits were to be considered as unexplained. After providing allowance of cash balance of Rs.20.36 Lacs as available on 08-11-2016, the remaining deposits of Rs.116.80 Lacs were held to be unexplained money and added to the income of the assessee u/s 69A. The Ld. CIT(A) confirmed the action of Ld. AO against which the assessee is in further appeal before us.

Our findings and Adjudication

4. From the facts, it emerges that the assessee is engaged in wholesale and retail trade of grocery items and allied products which regularly generate cash inflows for the assessee. The only source of income for the assessee is trading activity. In support of its claim, the assessee had furnished bank account statement and cash book for this financial year. The cash receipts as earned out of sale proceeds have duly been accounted for in the books of accounts and the cash balance as available in the cash book has been sourced to make impugned

deposits in the banks. The assessee has maintained purchase ledger, sales ledgers, stock ledger etc. The sales proceeds have duly been reflected in the VAT returns as filed by the assessee which is duly supported by the copies of VAT returns as placed on record. The sales turnover has been offered to tax and making impugned addition again would amount to double taxation. During the course of assessment proceedings, the assessee furnished summary of cash sales for the period from 01-04-2015 to 31-03-2018. The cash sales summary for these years as placed on record would show that that assessee regularly conduct sales in cash and there is no abnormal cash inflow in this year. No defect has been pointed in the books of accounts. In such a case, the decision of this Tribunal in **M/s RR Foods Pvt. Ltd. (ITA No.1359/Chny/2023 dated 03-07-2024)** would apply. On similar facts, the bench held that since the deposits were sourced out of business receipts, the impugned addition could not be sustained. This decision has considered the decision in Vidhiyasekaran Pradeep Malliraj (ITA No.698/Chny/2022) which has been relied upon by Ld. CIT(A) in the present case. The case of the assessee is also supported by recent decision of Chennai Tribunal in **Tamilnadu State Marketing Corporation Ltd. (ITA No.431/Chny/2023 dated 07-10-2024)** holding that simplicitor violation of certain notification issued by RBI would not entitle the revenue to make addition u/s 69 or 69A since the requirement of these sections should be fulfilled independently. Therefore, considering the facts and circumstances of the case, we delete the impugned additions. The Ld. AO is directed to re-compute the income of the assessee. No other ground has been urged before us.

5. The appeal stand allowed in terms of our above order.

Order pronounced on 6th November, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 06-11-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Madurai.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF