

**IN THE INCOME TAX APPELLATE TRIBUNAL "DB" BENCH, PATNA
(Through Virtual hearing at Kolkata)**

**BEFORE SHRI DUVVURU RL REDDY, VP
AND
SHRI RAJESH KUMAR, AM**

**ITA No.269/Pat/2023
(Assessment Year: 2017-18)**

Sushil Kumar Choudhary
M/s Radhey Shyam Banwarilal
Goushala Road, Siwan
Bihar-841226

Vs.

DC/ACIT, Circle -3
Income Tax Office, Opp Old
Bus Stand, Lalbagh,
Darbhanga, Bihar-846004

(Appellant)

(Respondent)

PAN No. ADFPC5368R

Assessee by : Sh. A.K. Rastogi &
Sh. Rakesh Kumar, Ars
Revenue by : Sh. Ajay Kr. Shukla, DR

Date of hearing: 13.11.2024
Date of pronouncement : 27.11.2024

ORDER

PER RAJESH KUMAR, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 13.07.2023 for the AY 2017-18.

02. The only issue in the grounds of appeal is against the confirmation of addition of ₹32,21,000/- by CIT (A) as made by the Id. AO on account of unexplained money being cash deposited during demonetization period.
03. The facts in brief are that the assessee is a dealer of products of Hindustan Uniliver Ltd a FMGC products manufacturing company and

is carrying on the business under the name and style of M/s Radhey Shyam Banwarilal. The assessee also derived income from other sources. During the year, the assessee filed the return of income on 1.11.2017, declaring total income of ₹26,33,894/-. The case of the assessee was selected for limited scrutiny for the reason that large amount of cash deposited in the bank account during the year. The statutory notices were duly issued and served upon to the assessee. The proceedings were attended before the Id. AO by the Id. Counsel for the assessee and details of sales, purchases as well as cash sales for the period prior to demonetization period and post thereto were filed. Besides, the cash sales for the F.Y. 2015-16 and 2016-17, were also filed to give an idea about assessee's volume of operation. The Id. AO analyzed the pattern of cash deposits during the period 9.11.2016 to 30.12.2016. The details were extracted on page nos. 3 to 5, where it was noted that the total cash deposits were ₹4,01,24,000/- during the Impugned financial year out of which ₹32,21,000/- was deposited on 10.11.2016 in old currency notes. The Id. AO thereafter extracted the total cash sales, including in other receipts during the period commencing from 1st April, 2016 to 8th November, 2016 in F.Y. 2015-16 and 2016-17 on page no.6 of the assessment order. Finally, the Id. AO treated the cash deposit of ₹32,21,000/- on 10th November, 2015, as unexplained money and added to the total income of the assessee u/s 69 read with Section 115BBE of the Act on the ground that the assessee has not furnished any evidences apart from the furnishing the details of month wise cash deposit into the bank account.

04. The Id. CIT (A) also confirmed the finding made by the AO in the assessment order for the same reason that the assessee has not produced any evidences before the Id. AO in the form of cash book,

ledger and other evidences. Aggrieved, assessee is in appeal before us.

05. After hearing the rival contentions and perusing the material available on record, we find that the assessee is a dealer in Biscuit, Horlicks, Medicine, Refine and other Products of Hindustan Unilever Ltd a FMGC company and has a huge turnover during the financial year of ₹32,04,00,269/-. The total purchases during the financial year were 27,87,55,187/-. We further observe that the cash sales during the year were ₹22,85,46,193/-. We have also examined the comparative sales of the assessee in the preceding two years, which is also been dealt with by the Id. AO in page 6 of the assessment order and is extracted below:-

Particulars	From 01.04.2014 to 0.11.2014	From 01.04.2015 to 08.11.2015	From 01.04.2016 to 08.11.2016
Total purchases	27,87,55,187	2,25,30,909	22,69,57,415
Total Sales	28,82,7,195	22,52,95,715	32,04,00,269
Cash Sale	27,20,87,376	22,45,65,020	22,83,46,193
Other than Cash sale	-	-	-
Any other cash receipt	6,42,207	22,398	16,423

06. Thus it is abundantly clear from the above table that assessee has sufficient sources available with him to source the cash deposits into the bank account. We note that the scheme of demonetization was announced on 8 November 2016. We have examined the copy of VAT returns, cash books, ledger and annual return in form RT 3. We also examined the copies of the balance sheet, profit and loss account, audited balance sheet long with annexures and find that the details referred to above were in complete agreement with the said audited accounts. Therefore, based on the above said history of the assessee, we are of the considered view that the assessee has a huge cash sale

which were consistently being made over the years including the current financial year and therefore, the action of the Id. AO in making the addition of ₹32,22,000/- on the ground of old currencynotes is wrong and cannot be sustained. Accordingly, we set aside the order of the Id. CIT (A) and direct the Id. AO to delete the addition.

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

Order pronounced in the open court on 27.11.2024.

Sd/-
(DUVVURU RL REDDY)
(VICE PRESIDENT)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 27.11.2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Patna