

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, HON'BLE VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1767/Chny/2024**  
निर्धारण वर्ष / Assessment Year: 2017-18

M/s. Aashish Auto Components  
Manufacturers Pvt Ltd.,  
No.86, Govindappa Naicken Street,  
George Town, Chennai – 600 001

Income Tax Officer,  
v. Corporate Ward -1(2),  
121, Mahatma Gandhi Road,  
Chennai – 600 034.

**[PAN: AAACA-5586-A]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. Shiva Srinivas, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 21.11.2024

घोषणा की तारीख/Date of Pronouncement

: 28.11.2024

**आदेश /ORDER**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 24.05.2024 and pertains to assessment year 2017-18.

2. In brief the sole ground before us is, the Id.CIT(A) has erred in deleting the addition of Rs.79,10,500/- u/s. 68 r.w.s.

115BBE of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

3. The brief facts are that, the assessee M/s. Aashish Auto Components Manufacturers Pvt. Ltd., is a company deriving income from business of auto components and filed its return of income for the assessment year 2017-18 on 02.11.2017, admitting an income of Rs.10,16,150/-. The case was selected for limited scrutiny under CASS and the main reason for selection was abnormal increase in cash deposits during demonetisation period. Accordingly, notices u/s. 143(2) and 142(1) of the Act were issued to the assessee calling for details of cash deposits during demonetization period. In response to notices, the assessee submitted books of accounts which were duly audited along with bank statement, cash flow statement, Balance sheet, Profit & loss account, Form 26AS, Party wise TDS received, Details of Freight charges, Trade payables, details of loans and borrowings, party wise details of purchases and sales and VAT returns. In support of the demonetization deposits the assessee submitted that the cash balance as on 01.04.2016 was Rs.32,99,815/- as per the cash book furnished and further there was a cash balance of Rs.90,49,790/- as on

01.11.2016 and the assessee had made several withdrawals from 01.11.2016 to 07.11.2016 and hence the cash deposit made during the demonetisation period an amount of Rs.79,10,500/- was out of the cash balance held by the assessee. On perusal of the submissions the AO was not satisfied with the explanation furnished by the assessee and hence made an addition of total of cash deposits of Rs.79,10,500/- u/s.68 r.w.s. 115BBE of the Act and completed the assessment u/s. 143(3) of the Act on 20.12.2019 by holding as under:

*"The Government had permitted use of old currencies of Rs.500 and Rs.1000 in twenty three places only. Even assuming, but not accepting assessee's plea or justification for depositing the SBNs on various dates represents withdrawals, the purpose and intent of the Government was to eradicate the Black Money from the system and bring out the hoarders of such money. When the announcement had been made on 08-11-2016 that Rs.500 and Rs.1000 ceases to be a legal tender, the assessee ought not to have accepted the same from the general public. The very act of the assessee in depositing the SBNs on various dates as mentioned in previous para clearly proves beyond doubt that it is against the intention and the very purpose for which the ban on SBNs were clamped by the Government of India.*

*The cash deposits made by the assessee are clearly in violation of Government ban to transact in SBN after 08.11.2016. Hence, the cash deposits made between 10.11.2016 and 30.12.2016 amounting to Rs. 79,10,500/- for which no satisfactory explanation is offered is brought to tax under section 68 r.w.s.115BBE of the Income Tax Act 1961.*

*Total income is reworked as under:*

<i>Income from business as returned</i>	<i>Rs.10,16,510</i>
<i>Income from Other Sources:</i>	
<i>Unexplained credit u/s.68</i>	<i>Rs.79,10,500</i>

Assessed income

Rs.89,27,010

4. Aggrieved by the assessment order of the AO, the assessee preferred an appeal before the Id.CIT(A). Before the Id.CIT(A), the assessee reiterated that it was carrying on the business of Auto components and assessed to TNVAT Act. The cash deposit during the demonetisation was out of the cash on hand held as on 08.11.2016 and furnished the cash book for the same. The Id.CIT(A), after considering the submissions made by the assessee, held that the assessee's submissions with regard to cash deposits during demonetization period is supported with documents and evidences. The Id.CIT(A) perused the abstract of cash balance held as on 08.11.2016 as Rs.98,94,790/- but deleted the additions made u/s.68 of the Act to the tune of Rs.8,55,000/- on account of cash withdrawals made from 01.11.2016 to 08.11.2016 and sustained the balance addition of Rs.70,55,500/- made by the AO is in order u/s.68 r.w.s. 115BBE of the Act by holding as under:

*5. Discussion and Decision;*

*5.1. I have gone through the assessment orders and the relevant submissions of the appellant. The brief issue involved in this case is that during the demonetization time (9.11.2016 to 31.12.2016), the appellant had deposited cash of Rs.79,10,500 in the bank account vide specified bank notes (SBN). According to the AO, these deposits were not properly explained by the assessee during the course of hearing. The appellant, before the*

AO had submitted that the sources of the cash deposits are from the previous withdrawals. The appellant had submitted the opening cash balance and subsequent cash flow statement before the AO. The brief cash flow statement submitted during the appellate proceedings is as below:

S.No		
1	Opening Balance as on 01.01.2016	9049790
Add:	Withdrawals South Indian Bank 01.11.2016	90000
	Withdrawals Dena Bank 02.11.2016	300000
	Withdrawals South Indian Bank 03.11.2016	300000
	Withdrawals South Indian Bank 04.11.2016	90000
	Withdrawals South Indian Bank 07.11.2016	75000
		9904790
Less:	Deposited in Dena Bank on 05.11.2016	10000
	Opening Balance as on 08.11.2016	9894790

5.2. As seen from the above statement, the opening cash balance as on 1.11.2016 is Rs.90,49,790/-. The appellant has made subsequent withdrawals from 1.11.2016 to 7.11.2016 amounting to Rs.8,55,000. During the appellate proceedings various factual and legal arguments were taken and submitted that the above addition of Rs.79,10,500 is bad in law. Before entering into the legal submissions, let us analyse the explanation provided by the applicant. The applicant had not given proper factual documentary evidence to prove the sources of funds. He simply had submitted that all the sources are from the previous withdrawals. As seen from the above table, the immediate previous withdrawals is only Rs.8,55,000 and the sources for the remaining sum was not explained, Even the nature of business and the methods of generation of cash in the business is also not submitted. He could not submit the cash turnover made in each month. He simply stated that cash was withdrawn from 1.4.2016 and the withdrawn cash was accumulated in the office. He haven't Submitted the mode of utilisation of cash. If he requires cash in his regular business activities, why the same is accumulated over the period of time. The submissions of the appellant in this regard is totally not reliable. No proper books of accounts were Submitted by the appellant either before the AO or during the

*course of appellate proceedings to prove the opening cash balance. Hence the opening balance of cash as submitted by the appellant is not reliable. In this aspect this case is distinguishable from the case of DCIT Vs Mc hospital ( 142 taxmann.com 122 ) as relied upon by the appellant.*

*5.3 The AO had also made certain enquiries with the individuals who had withdrawn cash and those persons are not the employees of the company. They have submitted that the withdrawn cash was handed over to the directors. If the company had account managers and other staff, the direct handling of cash by the directors is not explained anywhere. The relevant portion of the assessment order is extracted as below;*

*"While examining the bank statements, it was noticed that there were several cash withdrawals also, Cash withdrawals were in the name of Mr. Venkat, Mr. KC Gopi, Mr. Santanam, Mr. Mahesh and Ms. Reva. The Authorised Representative was requested to submit the sources for cash deposits and the submissions made by the Authorised Representative were examined. The Authorised Representative has submitted the cash flow for the Financial Year 2015-16, 2016-17 and also 2017-18 to explain that the cash withdrawals were the source for cash deposits. It was also contended that assessee had the habit of withdrawing from Bank and then deposit into the bank accounts. The withdrawals were shown as sources for such deposits. On perusal of Bank statement it is seen that the withdrawals were not made in the company's name but in the name of individuals. From the submissions and the examination of other account, it is noticed that the name of the above individuals do not find place in any account. Summons were issued to Mr. Venkat, Mr. KC Gopi, Mr. Santanam, Ms. Reva and Mr. Mahesh to appear before the undersigned. Mr. Santhanam and Mr. K.C Gopi appeared on 05-12-2019 and statement was recorded u/s 131 of the Income-tax Act, 1961. As per the statement Mr Santanam is not employed in M/s. Aashish Auto Components Manufacturers Pvt Ltd. He is hired by the company for helping Shri Rakesh Kumar Jain, the director of the assessee company, in his personal works. The person helps the director by going to bank when any cheques are handed over to him for encashment. Mr. Santanam was asked about roles and responsibilities in the assessee company. In his statement, he stated that cheques would be given in his name by the director of the assessee company and he would go to the bank withdraw cash and hand it over to Shri. Rakesh Kumar Jain. It was also contended that he did this atleast twice in a month and when*

asked for the dates on which such cheques were given, Mr Santana replied that he didn't remember the dates, Mr Gopi was also asked about his roles and responsibilities in the assessee company, Mr Gopi replied that he was taking care of day to day activities of the assessee Company like supply of materials and transportation of finished goods in addition to deposit or withdrawal of money into and from banks. He also contended that he would be given cheques in his name by the director Shri. Rakesh Kumar Jain. The cash would be withdrawn by Mr Gopi and handed over to the director. He was working with the assessee company for the past nine years.

5.4 Another observation made by the AO, is about the acceptance of cash in the specified banking notes after 8.11.2016, The AO had submitted that the assessee had not complied with the directions given by the Government of India in this regard. This particular fact is not explained by the appellant along with the sufficient documentary evidences. The relevant para in the assessment order is extracted as below;

"The assessee's act of accepting and depositing specific Bank Notes is in ultravires of Specific Bank Notes (Cessation of Liabilities) Act 2017. The Ministry of Finance in the Gazette Notification announced that the Specified Bank Notes in denomination of Rs. 500 and Rs. 1000 ceased to be a legal tender. RBI declared that no person is allowed to carry out business or transact in the legal tender that ceased to exist. Since any transaction is measured in terms of money, the SBNs which were not in vogue cannot be measured in money or money's worth and hence cannot be entered into books of accounts. Other legal tender currencies could be accepted and not the SBNs. The assessee does not fall under the exempted category as notified by the RBI and therefore, the SBNs are treated as unexplained credits in the books of the assessee.

5.5. The appellant couldn't explain the above lapses pointed out by the AO. He also couldn't submit the sources for such cash obtained along with the identity of individuals who had given such demonetized currency to the appellant. In view of the above, I could find that the sources of cash of Rs.8,55,000 which was withdrawn immediately just before the deposit can be accepted. However with respect to the remaining sum of Rs.70,55,500 the explanation of the appellant is not in order and not acceptable. The remaining sum of Rs.70,55,500 is to be treated as unexplained cash credit."

Aggrieved by the impugned order of the Id.CIT(A), the Assessee preferred an appeal before us.

5. The Id.AR for the assessee assailed the action of the Id.CIT(A) and stated that the Id.CIT(A) has erred in sustaining the addition u/s.68 of the Act to the tune of Rs.70,55,500/- is not justified, inspite of submitting documents and evidences to demonstrate the cash balance held on 08.11.2016 of Rs.98,94,790/- as a source to deposit the cash during the demonetisation period. The Ld.AR submitted that the assessee is a private limited company and the books of accounts of the company are maintained as prescribed and audited as per Companies Act and further audited u/s.44AB of the Act, therefore the cash balance as per the cash book and bank book furnished by the assessee cannot be conveniently ignored. Further, the Id.AR drew our attention to the return of income of the assessee filed in ITR 6 for the A.Y. 2016-17, under the head current assets cash balance as on 31.03.2016 was shown Rs.32,99,814/-. Further, the Id. AR took us through the summary cash book for the A.Y. 2016-17 and 2017-18 and shown that the cash available with the company was source to

deposit the same during the demonetisation period. Further, the Id.AR shown the audited financials of the assessee as on 31.03.2017, wherein the company had an opening cash balance as on 01.04.2016 of Rs. Rs.32,99,814/- and closing balance as on 31.03.2017 was Rs.60,88,023/-, after transacting the cash withdrawals, cash deposits in the bank account and spending towards cash expenses during the year. Therefore, the Id.AR stated that the AO and that of the Id.CIT(A) have erred in making an addition u/s.68 of the Act. Further, both the AO & Id.CIT(A) has not found any fault in the books of accounts nor rejected the same which was furnished by the assessee during the respective proceedings. Further, the Ld. Counsel for the assessee, stated that the assessee has proved the genuineness of the cash deposit with proper evidences and prayed for setting aside the order of the Id.CIT(A) and delete the additions u/s.68 of the Act entirely.

6. The Ld.AR also relied on the following judgments:

- Lalchand Bhagat Ambica Ram Vs. Commissioner of Income-tax [1959] 37 ITR 288 (SC)
- DCIT Vs. M.C. Hospital, [2022] [142](#) taxmann.com [122](#), (Chennai ITAT)
- R. S. Diamonds India (P.) Ltd Vs. ACIT, [2022] 145 taxmann. Com 545 (Mumbai - ITAT),

- Smt. Durga Devi Mundhra vs ITO in ITA No. 1228/Chny/2023, dated 25.04.2024.

In light of the above, the Id.AR prayed for considering the same and allow the appeal of the assessee.

7. Per contra, the Ld. DR, asserted action of the Id.CIT(A) and stated that the Id.CIT(A) was reasonable in deleting the addition of Rs.8,55,000/- on account of withdrawals made during the period from 01.11.2016 to 08.11.2016 as explained source for deposit and hence the balance addition may please be sustained u/s.68 r.w.s. 115BBE of the Act, as per the order of the Ld.CIT(A).

8. We have heard both the parties, perused materials available on record, and gone through orders of the authorities below. The fact with regard to the impugned dispute are that the assessee has deposited a sum in specified bank notes during demonetization period to the bank account. It is admitted from the records that the assessee is engaged in trading business of auto components. The case was selected for scrutiny to verify the source for cash deposited and called for certain details. The assessee deposited cash of

Rs.79,10,500/-, after announcement of demonetization by Government of India. The assessee deposited cash out of cash balance held as per the audited books of accounts. In response to notice u/s. 142(1) of the Act, the assessee submitted books of accounts which were duly audited along with bank statement, cash flow statement, Balance sheet, Profit & loss account, Form 26AS, Party wise TDS received, Details of Freight charges, Trade payables, details of loans and borrowings, party wise details of purchases and sales and VAT returns. In support of the demonetization deposits the assessee submitted that the cash balance as on 01.04.2016 was Rs.32,99,815/- as per the cash book furnished and further there was a cash balance of Rs.90,49,790/- as on 01.11.2016 and the assessee had made several withdrawals from 01.11.2016 to 07.11.2016 and hence the cash deposit made during the demonetisation period an amount of Rs.79,10,500/- was out of the cash balance held by the assessee. The assessee has maintained proper books of accounts and furnished before the lower authorities, which have not been rejected. The books of accounts of the assessee have been accepted by the lower authorities while framing the assessment and not rejected by pointing out any defects.

9. On perusal of the records and facts and circumstances of the case, we are of the considered opinion that the assessee has maintained proper books of accounts as per law and the same has been audited both under Companies Act and Income Tax Act and filed the same before the department regularly. The assessee has discharged his burden of proving the source for cash deposit of Rs.79,10,500/- by furnishing the cash book, abstract for the F.Y. 2015-16 & 2016-17 along with the opening balance of cash on hand as on 01.04.2016 as Rs.32,99,815/- and further there was a cash balance of Rs.90,49,790/- as on 01.11.2016. On these facts, it could be very well said that the assessee claim was backed up by relevant evidences. Thus, the assessee has discharged the burden of proving the source of the cash/SBN deposited in the bank and the Assessing Officer failed to rebut the same. The allegations/statistics relied upon by Assessing Officer to take an adverse view is not backed up by relevant evidence/material and therefore the action of AO and that of the Id.CIT(A) cannot be countenanced.

10. The assessee's reliance on the decision of the Apex court in the following cases which are identical to the present are taken into consideration:

**Lalchand Bhagat Ambica Ram Vs. Commissioner of Income-tax [1959] 37 ITR 288 (SC)**, it was held that it was clear on the record that the assessee maintained the books of accounts according to the mercantile system and there was sufficient cash balance in its cash books and the books of account of the assessee were not challenged by the Assessing officer. If the entries in the books of accounts are genuine and the balance in cash is matching with the books, it can be said that the assessee has explained the nature and source of such deposit"

11. Further, the coordinate bench decision in the case of Smt. Durga Devi Mundhra vs ITO in ITA No. 1228/Chny/2023, dated 25.04.2024 is applicable to the present case on hand, wherein the Tribunal held as under:

*"6. We are of the considered opinion that when the sale has been reflected in the books of accounts and offered to tax, adding the same again would amount to double taxation which is impermissible in law. The cash sales proceeds have been credited in the books of accounts and the same form part of assessee's cash book. On these facts, it could very well be said that the assessee's claim was backed up by sufficient documentary evidences. The allegation of Ld. AO is that such abnormal sales could not be achieved by the assessee immediately upon announcement of demonetization by the Government. However, such allegations are bereft of any concrete evidence on record. It is trite law that no addition could be made merely on the basis of suspicion, conjectures and surmises. In the present case, the assessee has duly*

*discharged the burden of establishing the source of cash deposit and the onus was on Ld. AO to disprove the same. However, except for mere allegation and few statistics, there is nothing on record to support the conclusions drawn by Ld. AO that the cash deposited by the assessee was her unaccounted money. There is no finding by Ld. AO that any particular sales affected by the assessee exceeded threshold limit which cast an additional obligation on the assessee to obtain requisite particulars from the customers. Since cash generated out of sales has been credited in the books of accounts, the provisions of Sec.69A could not be invoked in the present case. Therefore, on the given facts, the impugned additions are not sustainable. By deleting the same, we allow corresponding grounds raised by the assessee."*

12. Therefore, on the given facts, the impugned additions are not sustainable in the eyes of law and hence, we are of the considered view that the action of the AO and that of the Id.CIT(A) cannot be countenanced and we delete the impugned addition u/s.68 of the Act and allow the grounds raised by the assessee.

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

Order pronounced in the court on 28<sup>th</sup> November, 2024 at Chennai.

**Sd/-**  
(जॉर्ज जॉर्ज के)  
**(GEORGE GEORGE K)**  
उपाध्यक्ष /**VICE PRESIDENT**

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S. R. RAGHUNATHA)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated, the 28<sup>th</sup> November, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF