

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. Satbeer Singh Godara, Judicial Member

ITA No. 3467/Del/2024 : Asstt. Year: 2017-18

Sarad Singh, 266, Gali No. 2, Ambedkar Nagar, New Delhi-110088 (APPELLANT)	Vs	Income Tax Officer, Ward-36(8), New Delhi-110002 (RESPONDENT)
PAN No. FJOPS3588B		

**Assessee by : Sh. Rajkumar, Adv. &
Sh. Suraj Gupta, Adv.
Revenue by : Sh. Sanjay Kumar, Sr. DR**

Date of Hearing: 13.11.2024	Date of Pronouncement: 28.11.2024
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ORDER

This assessee's appeal for Assessment Year 2017-18, arises against the order of CIT(A)/NFAC, Delhi dated 25.06.2024 in case No. ITBA/NFAC/S/250/2024-25/1066010777(1) in proceedings u/s 144 of the Income Tax Act, 1961 (in short "The Act").

2. Heard both the parties at length. Case files perused.
3. The assessee pleads the following substantive grounds in the instant appeal:

"1. That the transfer of asstt. proceedings from ITO Ward-39(5) to ITO Ward-36(8) in the absence of any order U/s. 127/124/120, as the case may be, the impugned asstt. is without jurisdiction.

2. That in the absence of issuance of notice U/s. 142(1) by the ITO Ward-36(8), who framed the asstt., requiring the assessee to file the return and that too within specified time, the whole proceedings are illegal and without jurisdiction.

3. *That under the facts and circumstances, both the lower authorities grossly erred in law as well as on merits in making addition of Rs.32,14,500/- being the total amt. of cash deposited in bank during the whole year. Rs. 16,19,500/- deposited during 01.04.16 to 08.11.16 (pre-demonetization period), which was included the Opg. cash in hand of Rs.8,08,000/- as on 31.03.16/01.04.16. Rs. 15,95,000/- deposited during 09.11.16 to 30.12.16 (demonetization period) Rs.32,14,500/- Total.*

3.1 *That both the lower authorities erred in law and on facts in not considering the evidences filed and in mentioning for certain evidences as not being filed, although duly filed.*

3.2 *That without prejudice, under the facts and circumstances, the impugned addition of Rs.32,14,500/- cannot be made U/S.69A, hence, the whole addition needs to be deleted on the sole ground of addition being made under inapplicable Sec."*

4. Learned counsel presses for the assessee's third substantive ground only that both the lower authorities have erred in law and on fact in adding his entire cash deposits of Rs.32,14,500/- as unexplained, in the course of assessment as upheld in the lower appellate findings.

5. I have given my thoughtful consideration to both the parties and rival submissions reiterating their respective stands. The assessee's response to page 41 in the paper book comprising of his month wise cash sales and cash deposits from 01.04.2016 to 08.11.2016 along with the corresponding audited financial statement, tax audit report, bank statement, cash sales etc. The Revenue's case on the other hand is that the assessee could not explain source of his impugned cash deposits made in the entire period from 01.04.2016 to 08.11.2016.

6. Faced with this situation, I find part merit in the assessee's contentions going by his foregoing supported material that availability of cash from regular business sales

could not be altogether ruled out. The fact also remains that the assessee has not been able to reconcile all the impugned deposits vis-à-vis the corresponding figures in the cash flow statement so as to satisfactorily discharge his onus to prove the source of the amount herein i.e. Rs.32,14,500/-. I deem it appropriate in these peculiar facts that a lump sum addition of Rs.3,00,000/- only would be just and proper with a rider that the assessee shall not be taken as a precedent. The assessee gets relief of Rs.29,14,500/- in other words. Necessary computation shall follow as per law.

6. This assessee's appeal is partly allowed.

Order Pronounced in the Open Court on 28/11/2023.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 28/11/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR