

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.1679/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

Rams Trading Corporation
No.166, Jinnah Street,
Erode-638001
[PAN: AAEFR6671C]

Income Tax Officer,
Ward-1(1) ,
Erode.

(अपीलार्थी/Appellant)

अपीलार्थी की ओर से/ Assessee by

प्रत्यर्थी की ओर से /Revenue by

सुनवाई की तारीख/Date of Hearing

घोषणा की तारीख /Date of Pronouncement

(प्रत्यर्थी/Respondent)

Shri S.Sridhar, Advocate(Erode),

Ms.Gouthami Manivasagam, JCIT

26.09.2024

06 .12.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1065199525(1) dated 28.05.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 28.05.2024 passed by NFAC, Delhi.

2.0 The appellant has raised 8 grounds of appeal which are centering around the decision of the Ld.CIT(A) in confirming the addition of Rs.7,70,81,259/- made by the Ld.AO in his order u/s 143(3) dated 31.12.2019. All the grounds of appeal revolving upon this main point are therefore adjudicated together. The appellant has contested the merits of the addition as well as contended that reasonable opportunity of being heard has not been given.

3.0 The Ld. Counsel for the assessee explained that the Ld.AO had noted that the assessee had deposited Rs. 8,54,28,000/- in its bank account by way of SBNs during the demonetization period. The assessee, a bullion agent, had submitted that the cash deposits have a direct connection with advance sale receipt from customers. The Ld.AO had also asked complete details of name and addresses of persons from whom sale advances were received. The Ld.AO had asked to provide details of purchases and sales along with original vouchers. The assessee had filed the requested details. The Ld.AO however concluded lack of genuineness of transactions and identify of customers and non-supply of requested documents. He proceeded to make the addition of Rs.7,70,81,259/- u/s 69 of the act. The Ld. Counsel submitted that the Ld.CIT(A) noting assessee's conduct reported by the Ld.AO also

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concluded that the assessee had not provided the specific impugned details of sale / purchase, and stock register before him, confirmed the addition. Before us the assessee through its detailed paper book submitted and that prayed that it had submitted the details to Ld. AO / Ld.CIT(A) but the same have not been considered properly. The Ld. Counsel for the assessee drew our attention to page 97 and 99 of its paper book which are copies of electronic communication evidencing compliance by assessee to Ld.AO's notices. The Ld. Counsel of the assessee accordingly pleaded that one last opportunity may kindly accorded and the matter be restored to the file of Ld.AO for readjudication de novo. The Ld. DR argued that the assessee was given an opportunity and that costs be imposed.

4.0 We have heard rival submissions in the light of material available on records. There is no denying the fact that the Ld. AO had requested the assessee to file the details and the compliance was made by the assessee. We have also noted that the assessee had provided to the AO on various dates comparative P & L account and balance sheet for 2015-16 and 2016-17, bank statements from 01.04.2015 to 31.03.2017, details of suppliers, and copies of VAT returns etc to the AO as evident from page 97 and 99 of assessee's paper book. Thus it is clear that the

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lower authorities have omitted to consider the details and documents provided by the assessee during the assessment proceedings. Be that as it may be, we are of the view that the matter concerning cash deposits in assessee's bank account during demonetization period and the connected issue of advance sale from customers, in the light of evidences filed by the assessee, deserves to be objectively and comprehensively analyzed by the lower authorities. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file the impugned evidences before the Ld.AO. The decision to remit it back to the Ld. AO is taken in view of the fact that an Assessing Officer is the fulcrum of assessment proceedings. He possess the first right and responsibilities to examine facts of a case before arriving at his decision qua determination of taxable income in a particular case. We have noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the subject matter. Accordingly, the issue stands remitted back to the Ld. AO for readjudication de novo in accordance with law and by passing a speaking order. To the extent the order of lower authorities on this issue stands set aside. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bounden upon the assessee to comply with the notices issued by the Ld. AO. Any non-compliance on the part of the

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assesse can be adversely viewed. **Accordingly, all the grounds of appeal raised by the assessee are therefore allowed for statistical purposes.**

5.0 In the result, the appeal of the assessee is **allowed for statistical purposes.**

Order pronounced on 6th, December-2024 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 6th, December-2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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