

आयकर अपीलीय अधिकरण
दिल्ली पीठ "जी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्रीमती रेणु जौहरी, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

आअसं.1526/दिल्ली/2024 (नि.व. 2017-18)
ITA No.1526/DEL/2024 (A.Y.2017-18)

Income Tax Officer,
R. No. 234, C R Building, IP Estate,
Delhi 110002

..... अपीलार्थी/Appellant

बनाम Vs.

Shikhar Microfinance P. Ltd.,
A-112, 2nd Floor, Palam Extention,
Sector-7, Dwarka, Delhi 11007

PAN: AABCA-0655-R

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sahil Kumar Bansal, Sr.DR
प्रतिवादीद्वारा/ Respondent by : Shri Tapas Mishra, Advocate
सुनवाई की तिथि/ Date of hearing : 04/12/2024
घोषणा की तिथि/ Date of pronouncement: /12/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 15.02.2024, for assessment year 2017-18.

2. The solitary ground raised by the Revenue in appeal is against deleting the addition of Rs.2,55,64,000/- on account of unexplained cash credits by the CIT(A).

3. Shri Sahil Kumar Bansal, representing the department submitted that the assessee is a Non Banking Finance Company registered with Reserve Bank of India (RBI). During demonetization period the assessee accepted cash deposits of Rs.2,55,64,000/-. The Assessing Officer (AO) to verify genuineness of cash depositors as a test check issued notices u/s. 133(6) of the Income Tax Act, 1961(hereinafter referred to as 'the Act') to 15 persons. Out of 15 persons the notices sent to 10 persons were received back un-served. In the case of remaining five persons the notices were served, however, no reply was received. The assessee was asked to produce aforesaid persons. The assessee neither produced any of the persons to whom notices u/s. 133(6) of the Act were issued nor any documentary evidences were filed by the assessee to prove genuineness of the transactions. The assessee furnished KYC documents of the said persons, after examining the same, the AO came to the conclusion that the assessee has failed discharge its onus in proving genuineness of the transactions. Thus, the AO made addition of cash deposits aggregating to Rs. 2,55,64,000/- u/s. 68 r.w.s. 115BBE of the Act. He further contended that the CIT(A) without appreciating findings of the AO and without seeking any remand report on additional evidences filed during First Appellate proceedings granted relief to the assessee and deleted entire addition.

4. Per contra, Shri Tapas Mishra appearing on behalf of the assessee vehemently supporting the impugned order prayed for dismissing appeal of the Revenue. The Id. Counsel submits that the assessee is engaged in Micro Financing activities. The assessee lends money to poor woman and low income groups. The assessee has been disbursing micro loans to the under privileged under various schemes of the Government in cash. The amounts are received back in cash and

deposited in bank account of the assessee. During demonetization period the assessee had deposited total cash of Rs.9,78,06,486/- in its bank account, out of this cash Rs.2,55,64,000/- was deposited in old currency. The remaining amount was in new currency. This fact has been disclosed in the Audit Report and the Financial Statement in the format prescribed by the Ministry of Corporate Affairs. The Id. Counsel for the assessee further referred to detailed analysis of cash deposits into and cash withdrawals from bank accounts of the assessee during the Financial Year 2016-17 at page 24 of the paper book. He further submitted that at the time when notice u/s. 133(6) of the Act were issued by the AO, the loan account of the sampled customers i.e. the persons selected by the AO for issuing notice u/s 133(6) of the Act were either closed as they had paid the amounts in full or they were defaulters who had unpaid loan accounts. Therefore, none of the persons to whom notices were issued u/s. 133(6) of the Act responded to said notice. The assessee had furnished Cibil Report in respect of said 15 customers and had also furnished KYC documents collected by the assessee before disbursement of loan. These facts were again explained before the CIT(A). The CIT(A) after examining documents on record appreciated the facts, understood the business model of the assessee and thereafter deleted the addition made u/s. 68 of the Act. He prayed for upholding the impugned order.

5. We have heard the submissions made by rival sides and have examined the orders of authorities below. The short issue in appeal by the Revenue is deleting of addition u/s. 68 of the Act in respect of cash deposits during demonetization period. It is an undisputed fact that the assessee is a Non Banking Finance Company approved by the RBI and is engaged in providing loans to poor and low income

groups. The assessee has been lending money in small denominations in cash. The assessee has drawn our attention to a table at page 24 of the paper book which is an extract from assessee's books of account. The said table is reproduced herein below:-

During the Period	Opening Cash with Assessee company (with their 26 Branches)	Add: Repayment Collected from Customers (in Rs)	Less: Cash deposited into the Accounts	Cash withdrawn from Bank Accounts	Closing Cash in books of account of Assessee Company	Loan Portfolio O/s. from the books of Assessee Company
03th April 16	5,47,682.00	5,82,43,576.00	4,33,74,599.00	90,000.00	1,35,06,659.00	52,23,81,858.00
31 st May 16	1,55,06,659.00	5,93,51,165.00	5,63,59,776.00	1,56,925.00	1,86,54,973.00	54,59,90,003.00
30 th June 16	1,86,54,973.00	6,12,83,873.00	5,81,85,562.00	1,50,000.00	2,19,03,284.00	57,01,42,489.00
31 st July 16	2,19,03,284.00	6,22,55,522.00	5,87,21,456.00	1,31,991.00	2,56,69,341.00	58,68,18,687.00
31 st Aug 16	2,55,69,341.00	6,57,16,598.00	6,31,37,013.00	90,000.00	2,82,38,926.00	59,67,13,744.00
30 th Sep 16	2,82,38,926.00	6,60,43,638.00	6,29,55,887.00	1,15,000.00	3,14,41,677.00	60,45,93,692.00
31 st Oct 16	3,14,41,677.00	6,83,41,610.50	6,45,60,332.50	1,36,000.00	3,53,58,955.00	63,57,36,064.00
From 1 st Nov 2016 till 07.11.2016	3,53,58,955.00	8,035,655.00	7,803,883.000	-	35,590,727.00	628,552,426.00
8 th November 2016	35,590,727.00	2,362,319.00	2,684,876.00	-	3,52,68,170.00	626,588,589.00
From 9.11.2016 to 30.11.2016	3,52,68,170.00	3,07,40,387.00	4,73,68,891.00	-	2,02,39,666.00	63,02,48,236.00
31 st Dec 16	2,02,39,666.00	3,10,25,367.00	5,04,37,891.00	1,05,000.00	9,46,755.00	62,41,46,294.00
31 st Jan 17	9,46,755.00	5,54,50,703.00	5,49,62,076.00	-	14,35,382.00	63,13,70,216.00
28 th Feb 17	14,35,382.00	5,65,68,610.00	5,48,58,716.00	-	31,45,276.00	54,41,85,,332.00
31 st Mar 17	61,45,276.00	6,53,21,144.00	6,59,27,624.00	-	25,38,796.00	61,47,43,436.00

6. An examination of the table reveals that the assessee has been regularly depositing cash in the bank accounts. The assessee has given month wise analysis of collection of cash and the cash deposits in the bank account during Financial Year 2016-17, relevant to assessment year under appeal. It is not a case where the assessee has deposited cash during the period of demonetization only. The cash deposits in the bank are evenly spread throughout the year. The assessee has given specific details of cash deposits during the month of November 2016 i.e. when demonetization was declared.

7. To understand the business model of assessee and to test check the manner of disbursement and recovery of loan advanced to various persons and the method of recovery, the counsel for the assessee was asked to explain through one of the borrower i.e. Amarjeet Kaur. The Id. Counsel referred to disbursement sheet at page 50 of the paper book wherein Rs.20,000/- cash loan was disbursed to Amarjeet Kaur. Along with her cash loan of Rs.20,000/- each to four other women was disbursed on 08.01.2016. At page 53 of paper book is the receipt of repayment of loan amount. At pages 54 to 60 are the KYC documents collected by the assessee from borrower. The documents include voters cards, electricity bill, copy of bank passbook, Life Insurance policy etc. He thereafter referred to the loan account statement of Amarjeet Kaur at page 193 of the paper book. A perusal of same reveals that Rs. 20,000 disbursed on 08.01.2016 was received back in 12 installments along with interest. After recovery of loan amount with interest, the account was closed. In subsequent year Rs.50,000/- was disbursed to Amarjeet Kaur to be repaid in 24 installments and after recovery of the principal amount with interest, the account was closed. He further referred to installment schedule of repayment of Rs.20,000/- at page 196 of the paper book. A perusal of same reveals that Amarjeet Kaur had repaid entire principal amount with interest in monthly installments. Likewise, for other persons who have borrowed loans from the assessee in small denominations, the assessee has maintained loan accounts. The CIT(A) in First Appellate proceedings after examining the documents on record appreciated the reasons for no response to notices issued u/s. 133(6) of the Act and also as to why the reasons recorded by AO for making the additions are unsustainable. The assessee was able to substantiate identity of the borrowers and

genuineness of the loan transactions. The reason given by the assessee for non service of/no response to notice issued u/s. 133(6) of the Act is plausible. The assessee had furnished affidavits of various borrowers to whom notices u/s. 133(6) of the Act were issued by the AO at pages 260 to 271 of the paper book. It is a well settled law that unless contents of the affidavit are proved to be false, the averments made in affidavit are to be accepted as correct. All the borrowers have deposed that they have taken loan from the assessee in cash and have repaid the same in cash installments. Further, the books of account maintained by the assessee are subject to audit, no fault has been found by the AO in the books of assessee. The assessee collected money in cash and deposited the same in its bank accounts in regular course of business. In the month of November 2016 the assessee deposited cash collected during the relevant period in normal course of business plus cash in hand available at the end of October 2016. We find no infirmity in the findings given by the CIT(A) in deleting the addition.

8. Hence, the impugned order is upheld and appeal of the Revenue is dismissed being devoid of any merit.

Order pronounced in the open court on Tuesday the 10th day of December, 2024.

Sd/-

(RENU JAUHRI)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 10/12/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI