

**आयकर अपीलीय अधिकरण “सी” न्यायपीठ चेन्नई में।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, CHENNAI**

**माजनीय श्री महावीर सिंह, उपाध्यक्ष एवं  
माजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।  
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.1058/Chny/2024  
(निर्धारण वर्ष / Assessment Year: 2017-18)**

M/s. Overseas Beverages Pvt. Ltd. #11, IDC Honda Industrial Estate, Sattari, GOA-403 530.	बनम/ Vs.	ACIT Central Circle-1, Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>AAACO-5591-P</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Shri R. Venkata Raman (CA) - Ld.AR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri R. Clement Ramesh Kumar (CIT) -Ld. DR

सुनवाईकी तारीख/ <b>Date of Hearing</b>	:	18-09-2024
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	10-12-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals), Chennai-20, [CIT(A)] dated 23-02-2024 in the matter of an assessment framed by the Ld. AO u/s 143(3) of the Act on 20-12-2019.

The grounds raised by the assessee read as under: -

1. That the Learned Commissioner of Income Tax (Appeals) - 20, Chennai ["Ld.CIT(A)"] is not justified in confirming the addition to the extent of Rs.1,00,00,000/- made by the Assessing Officer u/s.69A r.w.s 115BBE of the Income-tax Act, 1961 ["Act"] treating cash deposits in the bank account, being bad debts recovered from the Sundry Debtors which has been duly offered as income, as unexplained money.

2. That the Ld.CIT(A) erred in not appreciating that the provisions of section 69A r.w.s 115BBE of the Act are not applicable to the facts and circumstances of the case of the appellant and consequently not justified in not deleting the addition made by the Assessing Officer u/s.69A of the Act.

3. That the Ld.CIT(A) failed to appreciate that the appellant had already offered the sum of Rs.1,00,00,000/- as its business income in its books of account and the addition of the same once again u/s.69A r.w.s 115BBE of the Act amounts to double addition.

As is evident, the sole issue that fall for our consideration is addition of cash deposit u/s 69A.

2. The Ld. AR advanced arguments and assailed the confirmation of impugned addition. It has been submitted that the cash was sourced out of realization from sundry debtors which was supported by various documentary evidences as placed on record. The Ld. CIT-DR also advanced arguments supporting the additions made by lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

### **Assessment Proceedings**

3.1 The assessee being resident corporate assessee is stated to be engaged as manufacturer of IMFL. An enquiry u/s 131(1A) was conducted at the business premises of the assessee by investigation wing, Coimbatore on 13-03-2017. It transpired that the assessee deposited cash of Rs.11.70 Crores in Specified Bank Notes (SBNs) in its bank accounts held with Axis Bank Ltd. and Karur Vysya Bank during demonetization period.

3.2 Shri K. Dhanakumar (Director), in statement recorded on 13-03-2017, stated that the sum of Rs.4.62 Crores was received from M/s Mahasakthi Mills Ltd. on 17-10-2016 and the amount of Rs.6.73 Crores was stated to be received from three entities viz. M/s Oceanic Impex, M/s Topaz International and M/s Eshikimpex. These concerns were

Mumbai based concerns. No explanation was offered for the balance amount of Rs.35.84 Lacs. The Ld. AO noted that the three entities were reflected as outstanding receivables of Rs.24.15 Crores in the books of the assessee as on 31-03-2014.

3.3 Shri T. Rajkumar (Managing Director), in sworn statement dated 13-03-2017, confirmed the statement of Shri Dhanakumar. In statement recorded on 02-09-2017, he stated that the assessee company used to get orders from three parties through Shri Sunil (an ex-employee) and there remained huge outstanding from these concerns. These entities directly remitted the outstanding amount in to the bank account of the assessee in SBNs during demonetization period. It was noted by Ld. AO that entire outstanding of Rs.24.15 Crores was written-off by the assessee during financial year 2014-15.

3.4 To verify the genuineness of the transactions, a commission was issued to Assistance Director of Investigation, Mumbai on 29-10-2019 to verify the existence and genuineness of these entities. However, it was reported that field enquiries as made on 06-12-2019 revealed that the three entities were not found at the given addresses. Accordingly, Ld.AO held an opinion that the assessee failed to explain the source of cash remittance into the bank accounts. Accordingly, the receipt of Rs.6.73 Crores was held to be unexplained money in the hands of the assessee. The assessee offered sum of Rs.5.73 Crores under PMGKY and accordingly, the balance amount of Rs.1 Crores was added u/s 69A. The unexplained portion of Rs.35.84 Lacs was also added in the hands of the assessee in similar manner. However, the addition of Rs.35.84 Lacs has already been deleted by Ld. CIT(A) and the same is not the subject matter of dispute before us.

3.5 The amount of Rs.4.62 Crores as stated to be received from M/s Mahasakthi Mills Ltd. was assessed in substantive manner in the hands of that entity. Since the funds so advanced by them were utilized by the assessee company, the said amount was added into the hands of the assessee company also on protective basis. However, the protective addition has already been deleted by Ld. CIT(A) and the same is not the subject matter of dispute before us.

3.6 Aggrieved by the action of Ld. AO, the assessee preferred further appeal before first appellate authority.

### **Appellate Proceedings**

4. During appellate proceedings, the assessee submitted that balance outstanding against the three parties arose on account of sales made to them in earlier years. The sales made to them was already offered to tax in earlier years and therefore, taxing the same again would amount to double taxation which is impermissible. The assessee also assailed applicability of provisions of Sec.69A to the aforesaid receipts on the ground that these provisions could be invoked only in case the assessee was found to be the owner of money, bullion etc. which is not recorded in the books of accounts. This is the primary condition for invoking the provisions of Sec.69A. When cash was sourced out of recorded sales, these provisions could not be applied. The assessee submitted that no such findings have been rendered by Ld. AO. The assessee also stated that it had sufficient cash balance as on 14-11-2016 which was verified during the course of assessment proceedings. Another pertinent fact brought to the notice that bad debt recovery of Rs.1 Crores was already offered to tax by way of credit to Profit & Loss Account and therefore, the same could not be taxed again u/s 69A. However, Ld. CIT(A) held that

the bad debts recovery was an attempt by the assessee to show its unaccounted money as 'business income'. The assessee failed to establish the link between the deposits and bad debts recovery stated to be made by the assessee. Accordingly, the impugned addition was confirmed against which the assessee is in further appeal before us.

### **Our findings and Adjudication**

5. From the facts, it emerges that the assessee has made sales to the three entities in earlier years. The sales made to these entities were offered to tax in those years. Since the amount from the three entities was not forthcoming, the balance outstanding against these entities was written-off by the assessee during FY 2014-15. In this year, the assessee has made recovery from them. Upon perusal of Profit & Loss Account, it could be seen that the assessee has credited 'bad debts recovered' for Rs.1 Crores as income and offered the same to tax as 'business income'. The action of the assessee is in accordance with law since any recovery of bad debts would be 'business income' for the assessee. It is undisputed fact that the assessee has already offered a sum of Rs.1 Crores as 'business income'. Taxing the same again u/s 69A would amount to double taxation which is impermissible. The Ld. AR has also placed on record copy of cash book for whole of the year (Page Nos.12-13 of the paper book) as well as summary of sundry debtors as on 31-03-2014 (Page No.14). The ledger extracts of three entities have also been placed on record on Page Nos.15 to 63 of the paper book. Upon perusal of the same, it could be seen that the assessee has recovered cash from one of the debtors and credited the same in its cash book. The Ld. AR has submitted that field enquiries have happened after huge time gap and no adverse view could be taken against the

same on the basis of outcome of the same. The same, in our considered opinion, is a plausible explanation and therefore, it has to be accepted. Therefore, considering the facts of the case, the impugned addition of Rs.1 Crores as sustained in the impugned order is liable to be deleted. We order so. No other ground has been urged in the appeal.

6. The appeal stand allowed in terms of our above order.

*Order pronounced on 10<sup>th</sup> December, 2024*

Sd/-  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :10-12-2024  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF