

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

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय 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.1057/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

<b>M/s. Nethravathi Distilleries Pvt. Ltd.</b> #1, Bangalore Main Road, Avargere Village, Kunigal-572 130 Karnataka.	<b>बनाम/</b> <b>Vs.</b>	<b>ACIT</b> Central Circle-1, Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>AAACN-6939-N</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 / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1.1 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 Ld. Commissioner of Income Tax (Appeals) Chennai is not justified in confirming addition of Rs.21,50,00,000/- made by the Assessing Officer u/s.69A of the Income-tax Act, 1961 ["Act"] treating cash deposits in the bank account, made out of sales realization from the Sundry Debtors in respect of sales already offered to tax in the earlier assessment years, as unexplained money.

2. That the Ld.CIT(A) erred in not appreciating that the provisions of section 69A 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) is not justified in sustaining the disallowance of bad debts of Rs.2,60,00,000/- made by the Assessing Officer.

As is evident, the issues that fall for our consideration are addition of cash deposit u/s 69A and disallowance of bad debts.

2. The Ld. AR advanced arguments and assailed the confirmation of impugned additions. To support the same, our attention has been drawn to various documents 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 in manufacture 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.29.50 Crores in Specified Bank Notes (SBNs) in State Bank of Hyderabad during demonetization period.

3.2 Shri Vasanthakumar (Director), in statement recorded on 13-03-2017, stated that the cash deposits were sourced out of receipts from three entities viz. M/s Oceanic Impex, M/s Topaz International and M/s Eshikimpex. These concerns were Mumbai based concerns. It was stated that the amount of Rs.22.57 Crores was received from these parties whereas an amount of Rs.5.40 Crores was received from Shri Dhanakumar. No explanation was offered for balance amount of Rs.1.53 Crores. It was also stated by him that the assessee had regular business

with these three parties till 31-03-2013 but due to some differences, the receivables to the extent of Rs.25.85 Crores as due from three concerns were not collected. He further stated that one Shri Sunil (past employee) helped in collecting the due amount from the three concerns and accordingly, the amount of Rs.22.57 Crores was collected from these concerns and deposited directly into bank account.

3.3 Shri T. Rajkumar, another director, in sworn statement dated 13-03-2017, confirmed the statement of Shri Vasanthakumar. Though it was stated that cash was received from these concerns for Rs.22.57 Crores, however, during the course of assessment proceedings, the assessee company filed a statement wherein it was stated that the amount of Rs.23.56 Crores was collected from these three concerns. Therefore, there were contradictions. However, it was admitted fact by Ld. AO that the said receipts were reduced from the debit balances outstanding in assessee's books of accounts against the three entities.

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. Therefore, the deposits of Rs.29.50 Crores were held to be unexplained money u/s 69A. Shri Dhanakumar offered sum of Rs.5.40 Crores under PMGKY Scheme and the assessee offered another sum of Rs.2.60 Crores under the scheme. After granting credit of both these amounts, the remaining amount of Rs.21.50 Crores was added to the income of the assessee u/s 69A.

3.5 Proceeding further, the assessee wrote-off sum of Rs.488.88 Lacs as bad debts against these three entities. However, Ld. AO held that there was excess claim to the extent of Rs.260 Lacs as under: -

No.	Particulars	Amount (Rs.)
1.	Outstanding Balance (A)	25,85,50,963/-
2.	Collection as reported by the assessee (B)	23,56,62,000/-
3.	Balance outstanding should be (A-B) = (C)	2,28,88,963/-
4.	Bad Debts claimed (D)	4,88,88,963/-
5.	Excess Claim disallowed now (D)-(C)	2,60,00,000/-

Accordingly, the same was added back to the income of the assessee. Finally, the business income was assessed at Rs.2.60 Crores and income from other sources was assessed at Rs.21.50 Crores.

### **Appellate Proceedings**

4.1 During appellate proceedings, the assessee submitted that there was no contradiction in the statements. In statement recorded on 13-03-2017 as well as recorded on 02-09-2017, it was stated that the source of the money was collection from debtors. The assessee also submitted that outstanding balances as on 31-03-2016 arose on account of sales made in earlier years. The sales turnover was offered to tax in earlier years and taxing the same again would amount to double taxation which is impermissible. The assessee submitted that the field enquiries were conducted after more than 6 years when Shri Sunil was not traceable and the assessee had already vacated the business premises at Mumbai. The assessee also assailed invocation of provisions of Sec.69A on the ground that these provisions could be invoked only where the assessee is 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 debtors' realization against recorded sales, these provisions could not be

applied. The assessee submitted that no such findings have been rendered by Ld. AO. It was also submitted that aggregate amount of Rs.8 Crores was offered under PMGKY out of which credit was given only for Rs.5.40 Crores.

4.2 The debtors position as well as turnover position was summarized by the assessee as under: -

Name of the Debtor	Receivable As on 31-03-2016	Remittance during FY 2016-17	Written-off in FY 2016-17	PMGKY Declared
Oceanic Impex	802.48 Lacs	724.48 Lacs	158 Lacs	80 Lacs
Topaz International	1031.88 Lacs	935.14 Lacs	196.74 Lacs	100 Lacs
Eshik Impex	751.13 Lacs	697 Lacs	134.13 Lacs	80 Lacs
<b>Total</b>	<b>2585.50 Lacs</b>	<b>2356.62 Lacs</b>	<b>488.88 Lacs</b>	<b>260 Lacs</b>

FY Ending	AY	Sales & other Income	Debtors' Balances
31-03-2014	2014-15	665.13 Lacs	2714.19 Lacs
31-03-2015	2015-16	411.75 Lacs	2614.46 Lacs
31-03-2016	2016-17	566.39 Lacs	2595.27 Lacs
31-03-2017	2017-18	969.34 Lacs	7.55 Lacs

4.3. The Ld. CIT(A) observed that in the field enquiries, the aforesaid entities were not found at the given addresses. The assessee miserably failed to establish the source of cash deposit and it could not be established that it was actually those three concerns which had deposited the amount in bank account of the assessee as pay-in-slips were signed by Shri Vasanth Kumar only. The AO has not denied genuineness of sales to these concerns but what was under suspicion was the fact that the money so deposited in the bank account on 23-12-2016 was debtors' realization. Initially it was stated that money was received in cash in physical mode which was then deposited into bank account. Subsequently, it was claimed that entire amount was deposited directly in bank account. There were contradictions in the statements

given by Shri T. Rajkumar. As per the books, the monies were received on different dates. After considering various facets, Ld. CIT(A) held that the assessee failed to establish that the source of cash deposit was debtors' realization. Therefore, the action of Ld. AO was upheld

4.4 On the issue of bad debts written-off, the assessee claimed that the amount of Rs.2.60 Crores was offered under PMGKY and actual write-off was for Rs.2.88 Crores only. However, Ld. CIT(A) observed that the assessee wrote-off an amount of Rs.4.88 Crores which nullifies the disclosure made under the scheme. Therefore, the addition was upheld against which the assessee is in further appeal before us.

#### **Our findings and Adjudication**

5. The Ld. AR has stated that aggregate amount of cash deposits was Rs.29.50 Crores. The assessee as well as Shri Dhanakumar made declaration under PMGKY Scheme for Rs.8 Crores. Accordingly, the differential of Rs.21.50 Crores was added to the income of the assessee u/s 69A. However, Ld. AR explained that cash deposits of Rs.29.50 Crores as reduced by declaration made by Shri Dhanakumar for Rs.5.40 Crores, was Rs.24.10 Crores. The assessee made realization from three debtors for Rs.23.56 Crores which is supported by the entries in the cash book and the balance of Rs.0.54 Crores was deposited out of cash-in-hand arising out of periodic withdrawals. The Ld. AR pointed out that the aforesaid three concerns had outstanding balances since 31-03-2013 and the same arose on account of sales made to them during 01-04-2010 to 31-03-2013. The genuineness of prior years' sales has not been doubted by the lower authorities and therefore, subsequent realization in respect of sales already offered to tax could not be questioned in the absence of contrary evidences. The Ld. AR also assailed the

applicability of the provisions of Sec.69A on the ground that debtors' realization was duly recorded in the books of accounts and therefore, these provisions could not have been invoked by Ld. AO.

6. In the paper book, the statement of Shri Vasanthakumar (Director), as recorded on 13-03-2017, has been placed on Page Nos.23 to 32 of the paperbook. In question No.9, the issue of deposits made by these three concerns was confronted to him. His reply was as under: -

Ans.: I am submitting the ledger accounts of M/s Oceanic Impex, M/s Topaz International and M/s Eshik Impex from 01-04-2012 to 08-03-2017 as Annexure-2 to this statement for your kind perusal.

In this connection, I would like to submit that all the above three concerns viz. M/s Oceanic Impex, M/s Topaz International and M/s Eshik Impex are our customers. These concerns were introduced by one Shri Sunil who was working with us as Vice President (Sales). These concerns were represented by Shri Ishan Ahmed and Shri Mustafa who had their office at 503, Church Gate Chambers, No.5, Marine Lines, Mumbai -400 020. It was informed to us that they are representing the buyer in Angola (Africa). The sales to these concerns were treated as Deemed Exports and till 31-03-2013 we had regular business with these concerns. After that, some difference surfaced and the receivables started mounting. Our Vice President (Sales) also connived with these buyers and had deserted us suddenly. In view of this, our business came to a standstill suddenly and the following receivables as on 31/03/2013 from these concerns could not be collected: -

(a)	M/s Oceanic Impex	-	Rs.8,02,48,543.75
(b)	M/s Topaz International	-	Rs.10,31,88,579.50
(c)	M/s Eshik Impex	-	Rs.7,51,13,840.00

Thus, a sum of Rs.25,85,50,963.25 were the outstanding lying with the above concerns as on 31/03/2013. I am submitting a copy of the relevant ledger extract – Trade Receivables as on 31/03/2013 as Annexure-3 to this statement for your kind perusal.

Since our Vice President (Sales), Shri Sunil only was in contact with the representatives of the above three concerns, we could not collect the outstanding receivables in spite of our best efforts. Since I was looking after only the purchases relating to the company, I do not know the full details of availability of cash as per the details above. However, as earlier explained by our group Chairman, Shri T. Rajkumar, our bankers, M/s State Bank of Hyderabad, Chennai have registered a complaint with CBI for non-payment of cash credit availed by the Company to the extent of Rs.40 Crores. Due to the extra ordinary situation explained above, our account with State Bank of Hyderabad has become NPA and we were under tremendous pressure to go for one time settlement and clear the dues. In this situation, Shri T. Rajkumar informed us that Shri Sunil came into contact and was ready to settle the outstanding dues in demonetized currencies as negotiated by him with the above three concerns. Further details on this transaction are known only to Shri T. Rajkumar. Around the dated when the amounts were remitted into the bank

accounts, Shri T. Rajkumar called me from Chennai and told that Shri Ishan Ahmed and Shri Mustafa have brought the cash in old demonetized currencies to settle the dues. To deposit the amount in our bank account at State Bank of Hyderabad, one of the Directors Signatures was required in pay-in-slip and accordingly, certain challans were sent by mail to me. I have taken the printouts and signed it and despatched the same to Shri T. Rajkumar through courier. Accordingly, the following amounts were remitted in the CC Account.

(1) 23/12/2016 - Rs.22,00,00,000 (4 Challans)

I am submitting the copies of the relevant remittance challans as Annexure-4 to this statement for your kind perusal. Accordingly, a total amount of Rs.22.57 Crores was received from the above three concerns through their representatives directly in Chennai and deposited in the CC account of State Bank of Hyderabad. In addition to this, another Rs.5.40 Crores cash was arranged by other director Shri K. Dhanakumar which was also remitted in the CC Account. The source for the Directors contribution of Rs.5.40 Crores is to be explained by Shri K. Dhanakumar only who is not in town today. I am also furnishing a copy of the bank statement dated 10/01/2017 containing the details of above remittances on various dates as Annexure-5 to this statement. We have also furnished online response to query from the Income-Tax Department on these remittances and a copy of the same is submitted as Annexure-6 to this statement.

In this statement, the circumstances under which the cash were realized from these three debtors was duly explained by Shri Vasanthakumar. It also emerges that the assessee conducted sales against these entities in earlier years which was duly evidenced by the ledger extracts of three entities. The three entities were introduced by Shri Sunil who happened to be sole point of contact between the assessee and the three entities. The sales to these entities were treated as Deemed Exports and till 31-03-2013, the assessee had regular business transactions with these concerns. After that, the differences arose and the outstanding of Rs.25.85 Crores as standing against these concerns could not be collected which was duly supported by the ledger extracts. Subsequently, Shri Sunil contacted the directors of the assessee entity to settle the dues in demonetized currencies. Since the assessee entity was under pressure to make settlement of bank dues, the offer was

accepted and the representatives of above concern remitted cash in old demonetized currencies which was deposited in bank account.

7. On the same day, the said deposition was confronted to the director Shri T. Rajkumar and his statement was also recorded on same day which is kept on Page Nos. 1 to 8 of the paper book. In reply to Q. No.5, he confirmed the said deposition. It was confirmed that the liabilities in the name of the three concerns were long outstanding and only contact representing these concerns was Shri Ishant Ahmed and Shri Mustafa who were introduced by Shri Sunil (Vice President-Sales). The assessee also provided spaces to them in one room in hired office at Mumbai. Since there were no orders after 01-04-2013, the assessee started insisting for settlement of outstanding balances. Suddenly, the two representatives as well as Shri Sunil deserted the place and could not be contacted thereafter. In the meantime, the bank started pressuring for settlement of bank dues. During second week of November, Shri Sunil contacted again and stated that the debtors were ready to settle the dues in old demonetized currencies. The same was accepted and accordingly, a sum of Rs.22.57 Crores was received and paid into CC Bank Account. In reply to Q. Nos.6 & 7, it was also stated by him that Shri Sunil was the only source of contact for the buyers. He left the services. After demonetization, he contacted and informed that the Angola buyers were willing to settle the dues of the assessee entity. In reply to Q. No.8, it was stated that the balances were outstanding against good supplied by the assessee against invoices and recorded transactions in the earlier years.

8. After collective consideration of above statements, it could be seen that a uninform stand has been taken by both the persons while

explaining the source of cash deposits by the assessee. From assessment orders, it could be ascertained that the assessee has undertaken business with these three entities and has carried out sales in earlier years. Such sales have been offered to tax in earlier years and therefore, taxing the same again would amount to double taxation which is impermissible. These three entities had outstanding balance since 31-03-2013 and the circumstances under which the dues have ultimately been recovered from these three concerns during this year have duly been explained in the recorded statement. It could also be seen that field enquiries have happened in the years 2019 whereas all the three parties deserted the office place since 2013 and therefore, no adverse inference could be drawn against the assessee on this fact. Apart from this fact, there is nothing with lower authorities to sustain the impugned additions. The sum so realized by the assessee has duly been credited in the cash book and corresponding reduction have happened in the amount of sundry debtors. The ledger extracts of the three entities as placed on record duly substantiate the same. In such a case, the provisions of Sec.69A could not be invoked since in our considered opinion, the provisions of Sec.69A could be invoked only where the assessee is found to be the owner of any money or bullion etc. which is not recorded in the books of accounts. The same is not the case here. The assessee has realized debtors during the year which have duly been credited in the cash book. There is no unexplained money within the meaning of Sec.69A. When the cash is sourced out of recorded debtors, the provisions of Sec.69A could not be invoked. Considering the facts and circumstances of the case, the impugned addition of Rs.21.50 Crores is

not sustainable in law. Therefore, we delete the same and allow the corresponding grounds as raised by the assessee.

9. On the issue of bad debts, Ld. AR has filed the details thereof as under: -

Particulars	Oceanic Impex	Topaz International	Eshik Impex	Total
Balance As on 01-04-2016	802.48 Lacs	1031.88 Lacs	751.13 Lacs	2585.49 Lacs
Less: Receipts during the year	(724.48) Lacs	(935.14) Lacs	(697.00) Lacs	2356.62 Lacs
Add: Income Admitted under PMGKY	80.00 Lacs	100 Lacs	80 Lacs	260 Lacs
Balance for Writing off of Bad Debts	158.00 Lacs	196.74 Lacs	134.13 Lacs	488.87 Lacs
Less: Bad Debts Written-off	158.00 Lacs	196.74 Lacs	134.13 Lacs	488.87 Lacs

It could be seen that the balance receivable from the debtors was Rs.2585.49 Lacs whereas the assessee has recovered sum of Rs.2356.62 Lacs from the three debtors. The balance which was not recovered was Rs.228.87 Lacs. Since we have accepted the explanation with respect to realization from debtors, the balance amount which could not be recovered would be Rs.228.87 Lacs only and not Rs.488.87 Lacs as claimed by the assessee. Therefore, we upheld this disallowance. The corresponding grounds as raised by the assessee stand dismissed.

10. The appeal stand party allowed.

*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