

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

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं  
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकर अपील सं. ITA No.1140/Chny/2024**  
**(निर्धारणवर्ष / Assessment Year: 2017-18)**

<b>J.K Jewel Craft</b> #287-E4, Sri Gujan Purandara Apartments Perur Main Road, Telungupalayam Pirivu, Coimbatore-641 010.	<b>बनम/</b> Vs.	<b>ITO</b> Non-Corporate Ward-4(2) Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>AAJFJ-8238-N</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri Raghav Rajeev Menon (Advocate)- Ld.AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Ms. R.Anita (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	02-12-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	12-12-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aggrieved by confirmation of addition of Rs.53.02 Lacs for Assessment Year (AY) 2017-18, the assessee is in further appeal before us. The appeal arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 29-02-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 16-12-2019. Having heard rival submissions, the appeal is disposed-off as under.

## **Assessment Proceedings**

2.1 The assessee being a partnership firm is stated to be engaged in jewellery business. It transpired that the assessee deposited sum of Rs.80 Lacs during demonetization period whereas it had cash balance of Rs.26.97 Lacs as on 08-11-2016. Accordingly, Ld. AO proceeded to make addition of differential amount of Rs.53.02 Lacs and show-caused the assessee.

2.2 The assessee submitted that there were cash sales between 09-11-2016 to 11-11-2016 for Rs.7.59 Lacs. Further partners' earlier drawings from business for Rs.45.43 Lacs was infused into the business and directly deposited in the bank account. The total cash balance as on 11-11-2016 was Rs.80 Lacs as under: -

<b>Description</b>	<b>Amount</b>
Closing cash balance available as per cash book as on 08.11.2016	Rs. 26,97,169
Add: Cash Sales and collection from debtors during the period 09.11.2016 to 11.11.2016	Rs. 7,59,666
Add: Partner's earlier drawing from business infused to the business and directly into bank(Counter foils for cash deposit by partner is attached with this reply)	Rs. 45,43,165
<b>TOTAL CASH DEPOSITS MADE ON 11.11.2016</b>	<b>Rs.80,00,000</b>

The same was utilized to make the deposits in the bank account and accordingly, the assessee opposed any addition.

2.3 However, Ld. AO held that cash collected from debtors during the period from 09-11-2016 to 11-11-2016 in Specified Bank Notes could not be accepted since the assessee could not transact in the old demonetized currency. Regarding money withdrawn by partner on various dates (during financial year 2015-16) amounting to Rs.45.43 Lacs for the purpose of purchase of land but remaining unutilized till the date of deposit i.e., 11-11-2016 and deposited during demonetization

period, could also not be accepted since it was quite unlikely and impractical for any businessmen especially running jewellery business to keep huge amounts of cash idle over a long period of time. Therefore, the amount of Rs.53.02 Lacs was added as unexplained investment u/s 69 and the assessment was framed.

2.4 Upon further appeal Ld. CIT(A) deleted the addition of Rs.7.59 Lacs on the ground that the assessee had submitted the details of sales, purchase and the stock details during the assessment proceedings but the AO has not been able to find anything contrary to the submission of the assessee.

2.5 On the remaining addition, the assessee submitted that it furnished cash book for financial years 2015-16 and 2016-17 along with the bank statements evidencing withdrawal of cash directly by the partners along with the summary of date wise withdrawals. The total withdrawals of cash from the firm's bank account for the period 29-09-2015 to 24-06-2016 amounted to Rs.96.39 Lacs. Out of the same, the partners have re-deposited sum of Rs.96.33 Lacs during the period from 12-04-2016 to 11-11-2016 which includes pre-demonetization period deposits of Rs.50.90 Lacs (i.e., from 05-04-2016 to 18-10-2016) and post-demonetization period deposits of Rs.45.43 Lacs. Had this cash balance out of withdrawal from firm's bank account as partners' personal withdrawals not been physically available on hand, this cash balance would not have been available in hand of the partners for immediate deposits in bank within 3 days of announcement of demonetization of SBN by the Government. The assessee also explained that the cash was withdrawn by the partners for the purchase of land which did not fructify due to non-availability of land in suitable location and at suitable

prices. Post demonetization, the partners' re-deposited the cash held by them in the bank account of the firm from where it was withdrawn. The Ld. AO made the addition on surmise, conjecture and suspicion that it is unlikely that the huge cash is kept in the custody of partners for a long time, which is not sustainable in law. The assessee also furnished a chart showing the dates of withdrawal of cash and the number of days for which the cash was held by the partners. Accordingly, the assessee prayed for deletion of remaining addition also.

2.6 The Ld. CIT(A) observed that as per chart, the withdrawals were not in bulk but the same were on different dates starting from 29-10-2015 till 24-06-2016. If a person has to withdraw money to buy a plot, he will withdraw the whole amount in bulk and not in small amounts as has been done by the assessee. Therefore, the circumstantial evidence was against the reasoning given by the assessee. The money was withdrawn regularly. Applying the theory of human probability, the action of Ld. AO was to be upheld. Accordingly, the addition to the extent of Rs.45.43 Lacs was confirmed against which the assessee is in further appeal before us.

### **Our findings and Adjudication**

3. From the facts, it emerges that the assessee is a partnership firm. Its partners have withdrawn money from the firm from time to time during the period from 29-10-2015 till 24-06-2016. The same was ostensibly for the purpose of purchase of land which is stated not to have fructified. Nevertheless, the withdrawals are duly supported by the cash book as well as books of accounts of the firm. The capital accounts of the two partners' have been placed in the paper-book wherein all these entries are reflected in the ledger of partner's capital account. This money has

subsequently been refunded by the two partners starting from 05-04-2016 in various tranches. Finally, the amount of Rs.45.43 Lacs has been refunded on 11-11-2016 which happens to fall in demonetization period. Except for this amount, all the other entries have been accepted by Ld. AO. All the withdrawals and deposits are evidenced by the bank statement of the assessee. In our considered opinion, the addition is based more on suspicion which is impermissible. The test of human probability as applied by lower authorities cannot be accepted considering the fact that all the withdrawals as well as refund except for one amount have been accepted by revenue and there is no concrete material to justify rejection of one deposit as made by the partners. This being so, the impugned addition is liable to be deleted. We order so. No other ground has been urged in the appeal.

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

*Order pronounced on 12<sup>th</sup> December, 2024*

<b>Sd/-</b>	<b>Sd/-</b>
<b>(MANU KUMAR GIRI)</b>	<b>(MANOJ KUMAR AGGARWAL)</b>
<b>न्यायिक सदस्य / JUDICIAL MEMBER</b>	<b>लेखक सदस्य / ACCOUNTANT MEMBER</b>

चेन्नई Chennai; दिनांक Dated : 12-12-2024

DS

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

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