

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री रवीश सूद, न्यायिक सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.411/RPR/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Md. Ilyas Shekhani
Avon Agency, Main Road,
Bemetara (C.G.)
PAN: ACTPR6242E

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Kawardha (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Bikram Jain, CA
Revenue by : Smt. Tarannum Verma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 21.01.2025

घोषणा की तारीख / Date of Pronouncement : 24.01.2025

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 10.07.2024, which in turn arises from the order passed by the A.O under Sec.143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 20.12.2019 for the assessment year 2017-18. The assessee has assailed the impugned order on the following grounds of appeal:

“1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in sustaining the assessment order passed by the A.O, wherein the Assessing Officer has erred in making addition of Rs.10,10,000/- on account of cash deposited in bank as unexplained money u/s.69A of the I.T Act. The addition made by the A.O. and sustained by CIT(A) is unjustified, unwarranted and uncalled for.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in sustaining the order of the A.O. wherein the Assessing officer has erred in invoking provisions of section 115BBE of Income Tax Act, 1961. The invocation of provisions of section 115BBE by A.O. and sustained by the CIT-Appeal is unjustified unwarranted and uncalled for.

3. The assessee reserves the right to add, amend or alter any grounds of appeal at any time of hearing.”

2. Succinctly stated, the assessee who is engaged in the business of mobile recharge distribution of Reliance Retail Limited, had filed his return of income for A.Y.2017-18 on 31.03.2018, declaring an income of Rs.7,52,800/-. Subsequently, the case of the assessee was selected for

“limited scrutiny” for verifying the cash deposits made in his bank account during the subject year.

3. During the course of the assessment proceedings, the A.O observed that the assessee during the demonetization period had made cash deposits of Rs.10,10,000/- in demonetized currency (SBNs) in his bank account No.38380400000049 with Bank of Baroda, Branch: Bemetara, as under:

Date	Denomination	Number	Total	Amount in Rs.
10/11/16	1000	24	24,000/-	2,16,000/-
	500	384	1,92,000/-	
12/11/16	1000	65	65,000/-	1,18,500/-
	500	107	53,500/-	
15/11/16	1000	516	5,16,000/-	5,40,000/-
	500	49	24,500/-	
24/11/2016	1000	25	25,000/-	89,000/-
	500	128	64,000/-	
28/11/16	1000	13	13,000/-	13,000/-
05/12/16	1000	15	15,000/-	18,000/-
	500	6	3,000/-	
09/12/16	500	13	6,500/-	6,500/-
13/12/16	1000	8	8,000/-	8,500/-
	500	1	500/-	
Total				10,10,000/-

As the assessee had failed to explain the source of the aforesaid cash deposits made in SBNs in his bank account, therefore, the A.O made an addition of the same by treating it as his unexplained money u/s. 69A of the Act. Accordingly, the A.O after, inter alia, making the aforesaid addition u/s.69A of the Act, determined income of the assessee vide his order passed u/s. 143(3) of the Act, dated 20.12.2019 at Rs.18,80,509/-.

4. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals) but without success. Although it was the claim of the assessee before the CIT(Appeals) that the cash deposits (in SBNs) made in his bank account were sourced out of sale proceeds of his business received during the pre-demonetization period but the same was rejected by him because no sale receipts/vouchers to substantiate the said claim were placed on record.

5. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before the Tribunal.

6. I have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home his contentions.

7. Shri Bikram Jain, Ld. Authorized Representative (for short 'AR') for the assessee, at the threshold, submitted that both the lower authorities had grossly erred in law and facts of the case in declining the assessee's claim that the cash deposits (SBNs) made in his bank account were sourced out of the sale receipts generated during the pre-demonetization period from his business as that of a distributor of mobile recharge coupon of M/s. Reliance Retail Limited. The Ld. AR to buttress his aforesaid claim had drawn my attention to the return of income filed by the assessee for the year under consideration which revealed that he had disclosed total turnover/receipts from his business at Rs.1,24,17,880/-. Elaborating further, the Ld. AR submitted that the aforesaid gross turnover/receipts was comprised of, viz. (i) cash receipts : Rs.1,16,26,120/-; and (ii) receipts through banking channels : Rs.7,91,760/-. The Ld. AR in his attempt to dispel all doubts as regards the authenticity of his aforesaid claim of source of cash deposits (SBNs) in his bank account i.e. sale proceeds of his business received during pre-demonetization period, had drawn my attention to a "chart" which revealed the month-wise consolidated details of cash deposits made by the assessee in his two bank accounts during the year under consideration as well as the immediately preceding year i.e. A.Y.2015-16. The Ld. AR referring to the aforesaid "chart" submitted that the cash deposits (in SBNs) made by the assessee in his bank account during the demonetization period i.e. November, 2016 to December, 2016

were very much in conformity with that made during the pre-demonetization period. The Ld. AR had specifically drawn my attention to the cash deposits made in the aforesaid bank account of the assessee in the month of June, 2016 to July, 2016 which were found to be comparatively more than that made in the month falling in the demonetization period. Carrying his contention further, the Ld. AR submitted that a bare perusal of the assessee's bank account No. 38380400000049 with Bank of Baroda, Branch: Bemetara, Page 32-33 of APB, revealed that the entire amount of the cash deposits were in tranches transferred/remitted by the assessee to its three vendors, viz. (i) M/s. Reliance Retail Ltd.; (ii) M/s. Laxmi Sales Corporation; and (iii) M/s. United Associates. The Ld. AR submitted that as there was a clear nexus between the cash deposits i.e. sale proceeds and remittance/transfer of the amounts of the aforementioned vendor, therefore, there was no justification for the A.O to have held the amount of cash deposits of Rs.10.10 lacs (supra) made by the assessee in his bank account in SBNs during the demonetization period as his unexplained money u/s. 69A of the Act. Apart from that, the Ld. AR had taken me through the "Sale register" for the period 01.10.2016 to 08.11.2016, Page 27 to 29 of APB which revealed that the assessee had during the pre-demonetization period i.e. 01.10.2016 to 05.11.2016 garnered cash sale receipts of Rs.14.73 lacs (approx.). The Ld. AR based on the aforesaid facts, submitted that as the

assessee had duly explained the source of cash deposits made in his bank account i.e. out of cash sale proceeds generated during the pre-demonetization period from his business as that of a distribution of mobile recharge coupon of M/s. Reliance Retail Limited, therefore, both the lower authorities had grossly erred in treating the same as his unexplained money u/s. 69A of the Act.

8. Per contra, Smt. Tarannum Verma, Ld. Sr. Departmental Representative (for short 'DR') relied on the orders of the lower authorities. It was submitted by the Ld. DR that as the assessee had failed to explain the source of the cash deposits before both the lower authorities, therefore, they had rightly held the same as his unexplained money u/s.69A of the Act.

9. I have thoughtfully considered the contentions advanced by the Ld. Authorized Representatives of both the parties in the backdrop of the orders of the lower authorities.

10. Controversy involved in the present appeal lies in a narrow compass, i.e. as to whether or not, the A.O is right in law and facts of the case in treating the cash deposits of Rs.10.10 lacs (supra) made by the assessee in his bank account during the demonetization period as his unexplained money u/s,69A of the Act?

11. At the threshold, I may herein observe, that it is a matter of fact borne from record that a perusal of the return of income filed by the assessee for the year under consideration i.e. A.Y.2017-18 reveals that he had, inter alia, disclosed the turnover from his business of mobile recharge coupon distribution of M/s. Reliance Retail Limited at Rs.1,24,17,880/- which comprises of, viz. (i) cash receipts : Rs.1,16,26,120/-; and (ii) receipts through banking channels : Rs.7,91,760/-. On a careful perusal of the bank account of the assessee, Page No.32-33 of APB, it transpires that the cash deposits made in the said bank account during the demonetization period were thereafter, in tranches, transferred/remitted to three vendors, viz. (i) M/s. Reliance Retail Ltd.; (ii) M/s. Laxmi Sales Corporation; and (iii) M/s. United Associates. Ostensibly, the aforesaid nature of transactions in the bank account of the assessee inspires confidence as regards the authenticity of the Ld. AR's claim that the cash deposits in SBNs made by the assessee in his bank account were sourced out of cash sale proceeds generated during the pre-demonetization period, which, thereafter, were in the normal course of his business remitted/transferred to its aforementioned vendors. Apart from that, I find that the copy of the sale register [as was filed by the assessee before the CIT(Appeals)] reveals that the assessee had garnered cash sale receipts of Rs.14.73 lacs during the pre-demonetization period i.e. 01.10.2016 to 05.11.2016, which, thus, could safely explain the source of the cash

deposits in SBNs of Rs.10.10 lacs made by him in his bank account during the demonetization period.

12. Although, the aforesaid set of facts and material placed before me inspires confidence as regards the Ld. AR's claim that the cash deposits in SBNs of Rs.10.10 (supra) lacs made by the assessee in his bank account during the demonetization period in his bank account No. 38380400000049 with Bank of Baroda, Branch: Bemetara, were sourced out of the cash in hand available with him as on 08.11.2016 i.e. during the pre-demonetization period, but at the same time, I cannot remain oblivious of the fact that the assessee had failed to come forth with any such irrefutable explanation much the less any supporting documentary evidence in the course assessment proceedings. Considering the totality of the facts involved in the present case, I am of a firm conviction that the matter in all fairness requires to be restored to the file of the A.O with a direction to re-adjudicate the issue. Needless to say, the A.O shall in the course of set-aside proceedings afford a reasonable opportunity of being heard to the assessee who shall remain at a liberty to substantiate his claim on the basis of fresh documentary evidence, if any.

13. In the result, appeal filed by the assessee is allowed for statistical purposes in terms of the aforesaid observations.

Order pronounced in open court on 24th day of January, 2025.

Sd/-

(रवीश सूद /RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 24th January, 2025.

***SB, Sr. PS.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.