

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.488/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Prafulla Kumar Pradhan, At: Kauripatana, PO: Raj Sunakhala, PS: Bolagarh, Dist: Khordha	Vs	DCIT, Circle-2(1), Bhubaneswar
PAN No. :ARHPP 9716 E		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
-------------------------	----	---------------------------

निर्धारिती की ओर से /Assessee by	:	Shri P.R.Mohanty, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr.DR
सुनवाई की तारीख / Date of Hearing	:	27/01/2025
घोषणा की तारीख/ Date of Pronouncement	:	27/01/2025

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 30.09.2024, passed in Appeal No.CIT(A), Bhubaneswar vide DIN & Order No.ITBA/NFAC/S/250/2024-25/1069269209(1) for the assessment year 2017-2018, on the following grounds of appeal :-

1. *For that order dated 30.09.2024 as passed under Section 250 of the I.T.Act, 1961 by the Commissioner of Income Tax (Appeals) Income Tax Department hereinafter referred to as the learned CIT(Appeals) dismissing the appeal is not just and legal on the facts and in the circumstances of the case.*
2. *For that the learned CIT(Appeals) without properly appreciating the submissions of the appellant from its proper perspective should not have confirmed the addition of Rs.10,98,000/- u/s.69 of the I.T.Act, 1961 on the facts and in the circumstances of the case.*
3. *For that the learned Assessing Officer having admitted that the appellant was having only cash sales and the appellant was used to deposit the cash in the bank account the learned AO is not justified to make addition of Rs.10,98,000/- u/s.69 of the I.T.Act, 1961 on the facts and in the circumstances of the case.*

2. The assessee is represented by Shri P.R.Mohanty, Advocate and department is represented by Shri S.C.Mohanty, Sr. DR.

3. The only issue involved in this case with regard to addition of Rs.10,98,000/- made u/s.69 of the Act on account of cash deposited in the bank during demonetization period under SBN.

4. It was submitted by the Id. AR that the cash was deposited out of the cash sales made during the year. The assessee is dealing in IMFL and accepted cash which includes the SBN taken against cash sales during demonetization period. The Id. AR submitted that the cash was accepted in SBN under compulsion as the customers came to the shop and had taken the goods i.e. liquor bottle and after opening the same asked the assessee to accept sale consideration in SBN. In the case of liquor, once the bottle is opened, no one can accept it as sales return, therefore, the assessee has no other alternative but to accept the sale consideration in any denomination irrespective of the fact whether it is SBN or any other currency. It was the submission that the AO has not rejected the books of accounts nor stock declared by the assessee was disturbed. The sales declared by the assessee were also accepted. He, therefore, submitted that there was a reasonable cause in accepting the SBN which was deposited in the bank and the source of the same was duly explained and thus the addition made deserves to be deleted.

5. In reply, Id. Sr. DR submitted that the cash was received in SBN during the demonetization and the assessee being a trader in IMFL is not authorized to collect such SBN currency, therefore, the addition made by

the AO is correct. Accordingly, the Id. Sr. DR vehemently supported the orders of the lower authorities

6. We have heard the rival submissions and perused the material available on record. It is perused that in this case the assessee has deposited total cash out of Rs.16,98,000/- in SBN during the demonetization period. The AO after giving credit of average sales of Rs.6,00,000/- held Rs. 10,98,000/- as unexplained. From the perusal of the order, it is seen that the AO nowhere held that the SBN accepted by the assessee during the demonetization is unauthorized and he himself had accepted the sales as well as stock declared by the assessee. It is not a case where provisions of Section 145(3) of the Act are invoked and income is estimated. The assessee is dealing in IMFL and had made retail sales of liquor wherein many cases customers took the goods and opened up the cap. Once the liquor bottle is opened, it cannot be returned to the seller as it cannot be accepted by any other customer and is a total loss to seller. Due to this compulsion and exceptional circumstances, the assessee had to accept the SBN in those cases. Though we are of the view that SBN cannot be accepted during demonetization except authorized by the RBI, however, as the circumstances narrated above are beyond the control of the assessee, therefore, it is a reasonable cause where to protect the interest of business and to avoid total loss, SBN were accepted from such customers. The AO has already allowed Rs.6,00,000/- as unexplained out of such sales in SBN and also accepted the trading results declared by the assessee wherein such cash sales in

SBN was included in total sales by the assessee. Looking to these circumstances, we are of the considered view that the addition of Rs. 10,98,000/- made by the AO and confirmed by the Id. CIT(A) should be deleted as the assessee has demonstrated the exceptional circumstances under which such cash was accepted under SBN. In view of these facts, the addition of Rs. 10,98,000/- made by the AO is hereby deleted.

7. In the result, appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 27/01/2025.

Sd/-
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
लेखा सदस्य/ ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 27/01/2025
Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Prafulla Kumar Pradhan,
At: Kauripatana,
PO: Raj Sunakhala,
PS: Bolagarh, Dist: Khordha
2. प्रत्यर्थी / The Respondent-
DCIT, Circle-2(1), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, ORDER,
Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY
(Assistant Registrar)
आयकर अपीलीय अधिकरण,
कटक/ITAT, Cuttack