

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No. 913/KOL/2024  
(Assessment Year:2017-18)**

**Lakshmi Mata Himghar Pvt.  
Ltd.**

Naisarai, Arambag,  
Dist. Hooghly-712602,  
West Bengal

**(Appellant)**

**ACIT, Circle-23(1),  
Hooghly**

Grand Trunk Rd., Chinsurah  
R.S., Chinsurah-712102,  
West Bengal

**(Respondent)**

**Vs.**

**PAN No. AAACL5463F**

**Assessee by** : Shri Soumitra Choudhury, AR  
**Revenue by** : Shri Sailen Samadder, DR

**Date of hearing:** 05.02.2025  
**Date of pronouncement :** 28.02.2025

**ORDER**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 26.10.2023 for the AY 2017-18.

02. At the outset, we note that there is delay of 117 days for which condonation petition along with affidavit was filed, explaining the reasons for delay. It was stated in the affidavit that assessee received the demand notice on 08.04.2024 by speed post, but did not receive any appeal either by register post or on email, which is general mode of communication. It was only noticed only after taking the print out



of the appellate order that there is a delay of 117 days for which the condonation petition is filed.

03. The Id. DR on the other hand strongly opposed the condonation of delay on the ground that the delay is not properly explained.
04. After hearing the rival contentions and perusing the materials available on record, we find that the reasons for delay appear to be sufficient and bonafide and accordingly, the delay is condoned.
05. The only issue raised against the confirmation of addition of ₹ 5,72,978/- and ₹ 1,62,88,300/- by the Id. CIT (A) as made by the Id. AO in respect of estimation of income at the rate of 8% on total deposit in bank account amounting to ₹71,62,220/- and cash deposit in the bank accounts of the assessee during the year of ₹1,62,88.300/-, respectively.
06. The facts in brief are that the assessee is engaged in the business of renting cold storage for which it used to charge rentals. During the year the assessee did not file any return of income despite notice u/s 142(1) of the Act issued to the assessee on 05.12.2017, requesting the assessee to furnish the return of income but there was no compliance from the assessee `s side and finally, the assessment was framed ex-parte u/s 144 of the Act. The Id. AO noted that on the basis of online records that assessee has two bank accounts (i) with United Bank of India, Hoogly and (ii) State Bank of India, Arambagh Branch, in which there were huge deposit of cash during the year which was split into two part (i) cash deposit during demonetization period of ₹39,49,000/- and (2) total cash deposit during the financial year of ₹1,62,88,300/-. It was noted by the d AO in para 3.2 that the total cash deposits of ₹1,62,88,300/- included cash deposits of



₹39,49,000/- during demonetization period. Thereafter, the Id. AO concluded that the assessee might have deposited cash during the demonetization period and other period out of the undisclosed income as there was no explanation from the side of the assessee. Accordingly, the entire deposit of cash in these two bank accounts of ₹1,62,88,300/- was added u/s 39 of the Act.

07. Similarly, the Id. AO computed the other amounts deposited in the bank accounts which aggregate to ₹71,62,220/- in both the bank accounts. The details were given in para 4.1.1, which according to the Id. AO was a business turnover and accordingly, the income was estimated at 8% of the said amount which worked out to ₹5,72,978/- and added as undisclosed income of the assessee.
08. In the appellate proceedings, the Id. CIT (A) dismissed the appeal of the assessee by upholding the order of Id. AO, deciding the issues based on the facts available, when the assessee failed to file any written submission.
09. The Id. AR vehemently submitted before us that the assessment passed by the Id. AO is bad in law and nullity for the reason that no addition has been made in the assessment order and therefore, the same is bad in law and may be quashed on merit. The Id. Counsel for the assessee submitted that assessee is operating a cold storage and derive income by way of rental income from the storage space let out. The Id. AR referred to the audited accounts of the assessee and submitted that during the year, the total income from operation was ₹1,80,64,642/- and the total expenses against the said income were 1,80,52,273/- and net profit was only ₹12,368/-. The Id. AR while taking the Bench through the Schedule no.12 (other expenses)



submitted that the assessee is operating a cold storage and were incurring huge expenses for operating the cold storage. The Id. AR submitted that the electricity charges were ₹73,05,780/- and security expenses were ₹5,76,000/-, commission to farmers of ₹14,03,082/-, loading and unloading expenses of ₹19,87,699/-, Fuel & Lubricants of ₹5,52,576/-, Repairs to building of ₹5,68,258, etc. The Id. AR therefore submitted the receipts/revenue which was derived from business operation of cold storage was added by the AO u/s 69 of the Act as unexplained money in the bank account of the assessee which is incorrect and may be reversed. The Id. AR while referring to Section 69 of the Act submitted that the provisions of the said section are applicable where unexplained investments are there. The Id. AR submitted that the assessee has not made any unexplained investments which were not recorded in the books of accounts and therefore, the said provisions have wrongly been invoked by the Id. Assessing Officer. The Id. AR submitted that the assessee has a meagre profit of ₹12,368/- as the business of cold storage has huge running and maintenance expenses, therefore, the addition u/s 69 of the Act of ₹ 1,62,88,300/- may be deleted. The Id AR contended that even the bank statements of both the banks were available before the Id. AO which state that after every receipt which was business receipt, the money was withdrawn for the operational expenses and only meagre balance is left in the bank account and at any point of time the balance ever exceeded even ₹ 3.24 lacs. Therefore, finding of the Id. AO is totally wrong. So far as the second addition of 8% on the other deposits in the bank account of the assessee are concerned, the counsel submitted that the assessee has not recorded any basis for estimating the said income, even in the case of best judgement assessment the Id. AO has to estimate the income at some reasonable



and comparative basis which is missing and therefore, the same may also be deleted.

010. The Id. DR on the other hand submitted that the assessee was non-co-operative before the lower authorities and therefore, the arguments made by the Id. AR are devoid of any merit.

011. After hearing the rival contentions and perusing the materials available on record, we find that the assessee is running a cold storage and receiving rentals for renting out the space. During the year, the assessee's total receipt was ₹1,80,64,642/- and total expenses was ₹1,80,52,273/- and thus, the net profit was only ₹12,368/-. We note that the assessee has incurred huge expenses on the electricity and various other expenses which aggregated to ₹1,80,52,273/-. We have also observed from the perusal of the bank statements of the two banks that assessee at no point of time has any substantial money accumulating in these bank accounts. Therefore, the theory invoked by the Id. AO that assessee has unexplained investments u/s 69 of the Act is wrong and against the facts on record. It is only for this reason the addition made by the Id. AO u/s 69 of the Act is ordered to be deleted by setting aside the order of Id. Commissioner of Income-tax (Appeals).

012. So far as the second addition on estimation is concerned, we note that the Id. AO has applied 8% on other deposits in the bank accounts/ aggregate to ₹71,62,220/-. We observe from the profit and loss account, that the assessee has a very meagre profit of ₹12,368/- and therefore, such estimation which is devoid of any basis cannot be sustained. Accordingly, the addition made by the Id. AO is ordered to



be deleted by setting aside the order of Id. CIT (A) and the appeal of the assessee is allowed.

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

Order pronounced in the open court on 28.02.2025.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 28.02.2025

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata