

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं. / ITA No.23/Agr/2022
(निर्धारणवर्ष / Assessment Year: 2017-18)

ACIT Central Circle Aaykar Bhawan, Sanjay Place Agra - 282002.	बनाम/ Vs.	M/s Radharani Jewellers Limited 5882/4, 2 nd Floor, Block No.4, Karol Bagh, Delhi-110005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAECR-3358-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Anurag Sinha (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr. Arun Kumar Yadav – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing	:	19-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	28-03-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2017-18 arises out of an order of learned Commissioner of Income Tax (Appeals), Kanpur dated 23-12-2021 in the matter of an assessment framed by Ld. ACIT, Central Circle, Agra (AO) u/s 143(3) of the Act on 31-12-2019. The sole issue in the appeal is addition of cash deposits during demonetization period.
2. The Ld. CIT-DR advanced arguments and supported the findings of Ld. AO whereas Ld. AR also advanced arguments and supported the findings of Ld. CIT(A) in the impugned order. Having heard rival

submissions and upon perusal of case records, the appeal is disposed-off as under. The assessee being resident corporate assessee is stated to be engaged in manufacturing / trading of gold, diamond, platinum, silver jewellery / coins / utensils and trading of gold and silver bullion. The assessee e-filed its return of income on 29-10-2017 declaring income of Rs.305.56 Lacs.

Assessment Proceedings

2.1 The assessee's case was scrutinized to verify the source of cash deposit of Rs.18.56 Crores which were deposited by the assessee during demonetization period. Out of said deposit, amount of Rs.18.49 Crores was deposited in Specified Bank Notes (SBNs). During the course of assessment proceedings, the assessee was, inter-alia, required to furnish cash sales and cash deposits of preceding two years. The assessee furnished various replies and documents to support the source of these deposits.

2.2 On the basis of data furnished by the assessee, it was observed by Ld. AO that the assessee had made cash sales of Rs.11.51 Crores on a single day i.e., on 08-11-2016 during 8.15 PM to 12 midnight at its showroom in Mathura which was having approx. 5000 Sq. feet covered area having 12 sales counter. The Ld. AO alleged that the sales were not genuine. The cash deposit during FY 2015-16 was Rs.10.89 Crores against cash sales of Rs.11.02 Crores whereas cash deposit in FY 2016-17 was Rs.22.93 Crores against cash sales of Rs.23.81 Crores. The cash sales made during November, 2016 up-to 08-11-2016 was approx. 55% of total cash made during the year.

Therefore, the same was abnormal trend and it was alleged by Ld. AO that the assessee had fabricated the transactions to create a source for cash deposit.

2.3 The assessee justified its sales stating that it was festival period and the sales were high on the day of announcement of demonetization. However, Ld. AO rejected the same and proceeded to estimate the abnormal sales as allegedly made by the assessee. Applying the ratio of cash sales and cash deposits for the month of October and November, 2015 to this year, Ld. AO quantified estimated excess sales for Rs.10.96 Crores and added the same as undisclosed income u/s 68 which would be taxable at higher rates as specified u/s 115BBE of the Act. The working of the same has been tabulated on Page No.8 of the order. Aggrieved, the assessee assailed the action of Ld. AO in further appeal.

Appellate Proceedings

3.1 During appellate proceedings, the assessee submitted that the addition was arrived at on the basis of statistical formula only and Ld. AO resorted to various unilaterally drawn assumptions and presumptions. The assessee maintained complete books of accounts such as cash book, ledger, stock register, purchase and sales bills etc. The books were duly audited under law and the same were produced to Ld. AO. The books were not rejected by Ld. AO. The assessee maintained complete stock register and it had sufficient stock-in-hand to make sales on 08-11-2016. The assessee has opening stock of Rs.11.77 Crores on 07-11-2016 and closing stock as on 08-11-2016

was Rs.3.60 Crores which would reveal that the assessee made actual sales. The assessee filed due VAT returns disclosing sales under VAT Act. On these facts, the assessee assailed the conclusions drawn by Ld. AO.

3.2 Regarding higher sales on 08-11-2016, it was stated that due to announcement of demonetization on that day, a panic situation was created and the customers rushed the showrooms to purchase the jewellery in exchange of Specified Bank Notes (SBNs). There was long queue of customers outside the showroom to buy jewellery out of Specified Bank Notes. The same resulted into higher sales during that day. The entire cash was deposited in various tranches during the period between 10-11-2016 to 17-11-2016. Reliance was placed on various judicial decisions to assail the impugned additions.

3.3 The Ld. CIT(A) concurred that the assessee produced audited books of accounts which were duly verified by Ld. AO without any qualification. No defect was found and the books were not rejected u/s 145(3). It was evident that the assessee had sufficient stock on 08-11-2016 to make higher sales on that date and all such stock was paid stock. The closing stock reduced from Rs.11.77 Crores to Rs.3.60 Crores on that day. All the payments regarding purchase of stock as held by the assessee was made through banking channel well before 08-11-2016. All the transactions of purchase and sales in quantity and values were duly recorded by the assessee. The Ld. AO made addition of Rs.10.98 Crores out of cash deposit of Rs.18.49 Crores considering it to be excess cash sales which as estimated on the basis

of a formula. The Ld. AO observed that in comparison to turnover of previous years and turnover of earlier months in the same financial year, the cash sales appeared to be quite unusual and disproportionate to its regular sales in the books of accounts. However, no evidence was there on record to support such findings. The declaration of demonetization was unanticipated and there was panic situation after announcement of demonetization. There was rush outside jewellery stores to exchange SBNs with jewellery which was a normal human conduct and therefore the consequential sales could not be held to be abnormal. The Ld. AO recorded statements of 5 salesmen during the course of assessment proceedings and did not find anything adverse upon such examination. The action of Ld. AO was largely influenced by consideration not borne out of records. IT is settled position of law that the suspicion however so strong could not be allowed to replace evidences. Further, each of the sales invoices were less than the prescribed limit of Rs.2 Lacs and in such case, the assessee was under no legal obligation to maintain the record of purchasers in respect of such sales. Applying the ratio of various decisions including the decision of Vizag Tribunal in the case of **ACIT vs. Hirapanna Jewelers (128 Taxmann.com 291)**, the addition so made u/s 68 could not be upheld and accordingly, the same was deleted against which the revenue is in further appeal before us.

Our findings and Adjudication

4. From the records, it emerges that the assessee is engaged in manufacturing / trading of gold, diamond, platinum, silver jewellery /

coins / utensils and trading of gold and silver bullion. Considering the volume of business, the assessee is required to maintain proper books of accounts as well as quantitative details of stock etc. which, in fact, has been done by the assessee. These books of accounts have duly been audited under law and the same were furnished to Ld. AO during the course of assessment proceedings. The books have not been rejected and no singled effect has been pointed out in the same. The assessee has duly furnished stock register as well as cash book which would show that corresponding entry of purchase and sales was made therein and the same were duly recorded in the books of accounts. The assessee had sufficient closing cash-in-hand as on 08-11-2016 to make impugned deposits in the bank accounts. The sales are supported by sales invoices and the payment for all the purchases was made through banking channels well before 08-11-2016. The salesmen of the assessee were examined by Ld. AO and no adverse finding was recorded in the assessment order. The sales made by the assessee were duly credited in the Profit & Loss Account and sales were duly reflected in the VAT returns. A separate addition thereof would amount to double taxation which is impermissible.

5. It could be seen that the assessee furnished plethora of documents in support of its submissions. The same include Tax Audit Report, Audited financial statements, monthly cash sales for this year, copy of cash book, sales ledger along with copies of bills / invoices, stock register, details of sales from AYs 2014-15 to 2019-20, month wise sales, purchase and stock details, returns filed under VAT act for

the month of October and November, 2016 disclosing such sales and various other documents. The cash-in-hand as on 08-11-2016 was reflected at Rs.19.37 Crores which was utilized to make the deposits during demonization period. On all these facts, it could be well said that the assessee had duly discharged the initial onus of establishing the source of cash deposit and the onus was on revenue to controvert the same. However, this onus, in our considered opinion, has remained to be discharged by the revenue by bringing on record adverse evidences to disprove the claim of the assessee. The Ld. AO has merely applied a mathematical formula to arrive at alleged excess sales without there being any single evidence to show that any of the sales as made by the assessee was not genuine. The said estimation, in our considered opinion, is wholly erroneous and the same could not be sustained in the eyes of law. The Hon'ble High Court of Madras in the case of **CIT vs. Anandha Metal Corp. (152 Taxman 300)** has held that return accepted by commercial tax department is binding on Income Tax Authorities.

6. In the light of all these facts and circumstances of the case, we would hold that Ld. CIT(A) has clinched the issue in correct respective and arrived at correct conclusion. We find no reason to interfere in the same.

7. The appeal stand dismissed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28-03-2025

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

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

ASSISTANT REGISTRAR

ITAT AGRA