

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

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

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.341/RPR/2024**

**निर्धारण वर्ष / Assessment Year : 2017-18**

Payel Verma  
Prop. M/s. Jai Vriddhi Traders,  
Ananj Mandi Line, Behind Nehru Bhawan,  
Supela Bhilai-490 023  
PAN: AOVPV3159G

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-1(3), Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Mrs. Payel Verma, Assessee  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 09.04.2025

घोषणा की तारीख / Date of Pronouncement : 09.04.2025

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 29.05.2024 for the assessment year 2017-18 as per the following grounds of appeal:

**“General**

1. The order of the learned NFAC is contrary to law, facts and circumstances of the case. Accordingly, the order is bad in law and ought to be quashed. 2. The additions of Rs.17,61,000 made by the Assessing Officer and sustained by the learned NFAC is purely based on surmises, conjecture, and presumptions and therefore the same deserves to be deleted.

3. The learned NFAC grossly erred in confirming the order framed by the Assessing Officer under section 143(3) in determining the total income at Rs.25,98,020 including computing the taxable income at Rs.17,61,000 under section 69A r.w.s Section 115BBE of the Act as against Rs. 8,37,020 returned under regular provisions of the Act by the appellant.

4. The learned NFAC ought to have appreciated that the Assessing Officer ignored the business model of the Appellant as well as explanation offered regarding cash deposits during the course of the assessment proceedings.

**Ground No.5 – Erroneously triggering and taxing income under the provisions of section 69A r.w.s Section 115BBE of the Act**

a) Having regards to the facts and circumstances of the case, the learned NFAC has grossly erred in law and on facts, in confirming the order framed by Assessing Officer under section 143(3) without considering the details and material on record. Therefore, the additions confirmed of Rs.17,61,000 is liable to be deleted.

b) The learned NFAC erred in observing that cash deposited in the bank account of the appellant during demonization period stands unexplained and is from undisclosed source.

- c) The learned NFAC failed to appreciate that it is not in dispute that the sum of Rs.17,61,000 was credited in the sale account and had been duly included in the profit disclosed by the appellant in its return. It is in these circumstances the cash sales could not be treated as undisclosed income and no addition could be made once again in respect of the same.
- d) The learned NFAC failed to appreciate that the provision of Section 69A of the Act cannot be applied in respect of alleged unexplained cash deposited of Rs.17,61,000 in the regular bank account of the appellant during demonization period which have been duly recorded in the audited books of accounts and had already been declared income in the return of income and taxes have been paid on the same by the appellant.
- e) The learned NFAC has erred in confirming the order of the Assessing Officer ignoring the position of law that provisions of section 69A cannot be applied in respect of income from a source which has already been taxed which would amount to double taxation.
- f) The learned NFAC has failed to appreciate that all the purchases and sales are fully vouched and no defects in the quantitative details of stock register maintained by the appellant have been found and, therefore, the confirmation of addition of Rs.17,61,000 is against the facts and circumstances of the case.
- g) The learned NFAC has failed to appreciate that the Assessing Officer having not found any fault in the books of accounts during the course of assessment proceedings and did not reject the books of accounts under section 145(3) and hence as per the settled law, the addition cannot be sustained.
- h) The learned NFAC erred in not appreciating that the Assessing Officer have not made any adverse remark on the purchases shown in the books of accounts. Once the purchases have been accepted, then the corresponding sales cannot be disturbed without giving any conclusive evidence/finding.
- i) The learned NFAC erred in not appreciating that the alleged report dated 29 November 2019 submitted by the inspector containing the adverse findings which was relied upon by the Assessing Officer for taxing demonetized cash deposited was not shared with the appellant to rebut the findings in the report. Hence, it was gross violation of principles of natural justice.

j) The learned NFAC failed to appreciate that there was no necessity for the appellant to maintain address of the cash customers and hence merely because the parties could not be found at the address, the provisions of section 69A could not be invoked.

k) The appellant prays that the Assessing Officer be directed to delete the erroneous additions made of Rs.17,61,000 under section 69A r.w.s Section 115BBE of the Act and to compute the total income and tax thereon accordingly.

**Ground no.6 — Levy of interest under section 234B**

The learned NFAC erred in upholding the order of the Assessing Officer in levying interest under section 234B of the Act at Rs.4,48,896. The appellant denies the said --- liability of interest under section 234B.

**Ground no.7 — Levy of interest under section 234C**

The learned NFAC erred in upholding the order of the Assessing Officer in levying interest under section 234C of the Act at Rs.4,586. The appellant denies the said liability of interest under section 234C.

**General**

8. The Assessing Officer erred in initiating penalty proceedings under section 271AAC(1) of the Act.

9. Each one of the above grounds of appeal is without prejudice to the other.

10. The appellant reserves the right to add, alter, vary, omit or substitute or amend each of the above grounds of appeal or add a new ground or grounds of appeal at any time before or at the time of hearing of the appeal as it may be advised.”

2. Brief facts in this case are that the assessee is an agent of M/s. Godfrey Philips India Ltd. and is engaged in the business of trading Marlboro Cigrates, Candy, Tea, Pan Masala etc. During the course of assessment, it was noticed by the A.O that the assessee during the year

had deposited cash of Rs.1,37,51,000/- out of which Rs.17,61,000/- were in SBNs (Specified Bank Notes). The assessee explained that these demonetized notes were received from various small time pan shops etc. and those who are selling as retail items to the customers. These small retailers purchases items from the assessee and they do not have any income tax files nor they have any GST papers and even they are not available every time at one part or place since they are doing business normally in carts/trolley. That, in the present case the assessee is a whole-seller and from the assessee, these people purchases goods for selling. The explanation by the assessee was not accepted by the A.O who made the addition of the cash deposits in demonetized currency of Rs.17,61,000/- u/s. 69A of the Act as unexplained money in the hands of the assessee.

3. The Ld. CIT(Appeals)/NFAC had summarily confirmed the findings of the A.O.

4. I have carefully considered the submission of the parties herein, analyzed the facts and circumstances in this case. The department had not disputed the nature of business of the assessee that the assessee is a wholesaler and selling goods to the retailers. The department had also not disputed that some of the retailers are also petty pan-walas/pan shop owners who do not have adequate documents either from the perspective

of the income tax or from the perspective of the sales tax. Some of the petty pan-walas also conducts their business in some carts/trolley and they are not available every time at one single place. These realities have also not been disputed by the department. The Department has not questioned the turnover of the assessee and also has accepted the business module conducted by the assessee. Books of accounts of the assessee has also been accepted by the department. When all these parameters have been fulfilled by the assessee, there cannot be any addition u/s.69A of the Act treating the cash deposits in the bank account as unexplained money of the assessee. In view thereof, I set-aside the order of the Ld. CIT(Appeals)/NFAC and direct the A.O to delete the addition of Rs.17,61,000/- from the hands of the assessee.

5. As per the above terms, the grounds of appeal raised by the assessee are allowed.

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

Order pronounced in open court on 09<sup>th</sup> day of April, 2025.

Sd/-

**(PARTHA SARATHI CHAUDHURY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

रायपुर / Raipur; दिनांक / Dated : 9<sup>th</sup> April, 2025.

SB, Sr. PS

**आदेश की प्रतिलिपि अग्रहित / 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, "एक-सदस्य" बेंच,  
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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