

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "B" BENCH: HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA.No.89/Hyd/2025
Assessment Year 2017-2018

Shyam Sunder Baheti, Hyderabad – 500 036. PAN AGTPB4756B	vs.	The Income Tax Officer, Ward – 9 (4), Hyderabad. – 500 004. Telangana
(Appellant)		(Respondent)

For Assessee :	CA Shreya Jhawar
For Revenue :	Dr. Sachin Kumar, Sr. AR

Date of Hearing :	07.04.2025
Date of Pronouncement :	16.04.2025

ORDER

PER MANJUNATHA G. :

This appeal has been filed by the Assessee against the order dated 25.11.2024, of the learned CIT(A)-National Faceless Appeal Centre [in short the "NFAC"] Delhi, relating to the assessment year 2017-2018.

2. Brief facts of the case are that, the assessee is an individual and proprietor of M/s. Baheti Steels, has filed his return of income for the assessment year 2017-2018 on

30.10.2017 declaring total income at Rs.15,54,000/-. The case of the assessee was selected for complete scrutiny under CASS for the reasons i.e., abnormal increase in cash deposits during demonetization period as compared to pre-demonetization period. Accordingly, notice u/sec.143(2) of the I. T. Act, 1961 was issued and called-upon the assessee to file relevant evidences in respect of source of cash deposits. In response, the assessee filed his reply referring to the nature of business along with copy of statement of bank accounts, computation of income, balance-sheet, P & L A/c, audit report, month-wise statements of cash deposits and cash sales for the financial years 2015-2016 and 2016-2017 and claimed that source for cash deposit is out of opening cash in hand as on 08.11.2016 of Rs.80,53,566/- as per cash book maintained by the assessee. The Assessing Officer after considering the relevant evidences filed by the assessee and also taking note of cash deposit during the month of November, 2016 observed that there is abnormal increase in cash sales and cash deposit during November, 2016 when compared to the period prior to 08.11.2016. The

Assessing Officer further observed that average cash deposit per day other than demonetization period was Rs.7,636/- per day, whereas, the average cash deposit for 52 days during demonetization period was at Rs.3,97,072/-. Therefore, the Assessing Officer observed that the assessee could not establish source for cash deposit with known source of income and thus, rejected the explanation of assessee and made addition of Rs.60 lakhs as unexplained cash credits u/sec.68 of the Income Tax Act, 1961 [in short “the Act”].

3. Being aggrieved by the assessment order, the assessee preferred appeal before the learned CIT(A) and reiterated the submissions made before the Assessing Officer along with certain evidences and claimed that the Assessing Officer has erred in comparing cash sales and cash deposit for the month of November, 2016 to the cash sales and cash deposit of remaining period ignoring the fact that for the last 03 financial years, the assessee’s cash sales is almost similar and there is no abnormal deviation in the cash sales for the year under consideration. Further, the

source for cash deposit is out of sales declared for the year under consideration which are supported by necessary bills and books of accounts maintained and as per cash book available in hand as on 08.11.2016 was more than the amount of cash deposited during demonetization period. Therefore, submitted that Assessing Officer was erred in making addition as unexplained cash credits. The learned CIT(A) after considering the relevant submissions of the assessee and also taking note of relevant facts observed that, there is unexplained spurt in the sales during demonetization period which is beyond preponderance of probability. Further, although, the assessee has filed relevant evidences including books of accounts along with sales invoices, but, the Assessing Officer noted that the bills are unverifiable as complete details like address or phone no. of the purchasers are not written on the Invoices. Hence, the invoices furnished by the appellant cannot be considered as genuine. Therefore, by taking note of the decision of Hon'ble Apex Court in the case of CIT vs., Durga Prasad More [1971] 82 ITR 540 (SC) and Sumati Dayal vs.,

CIT [1995] 214 ITR 801 (SC) held that the appellant could not establish the genuineness of source of cash deposited during demonetization period and accordingly, rejected the explanation of assessee and upheld the additions made towards cash deposited u/sec.68 of the Act.

4. Aggrieved by the order of the learned CIT(A), the assessee is now in appeal before the Tribunal.

5. CA Shreya Jhawar, Learned Counsel for the Assessee, submitted that, the learned CIT(A) erred in sustaining the additions made by the Assessing Officer towards cash deposit u/sec.68 of the Act without appreciating the fact that the sales declared in the books of accounts cannot be brought to tax as unexplained cash credits. Learned Counsel for the Assessee further referring to various evidences submitted that the Assessing Officer never disputed the fact that available cash in hand as per books of accounts as on 08.11.2016 was in excess of cash deposited into bank account during demonetization period. However, rejected the explanation of assessee only on the ground that in the sales bills complete information of

purchases are not referred ignoring the fact that if the sale value is less than Rs.2 lakhs the assessee need not to maintain KYC of the purchasers and further, the assessee is dealing in goods where the sale value is higher and where the purchase bills are issued with handwritten bills. Therefore, merely for the reason of non-availability of certain details in the sale bills, the genuineness of the sales cannot be doubted and additions cannot be made towards cash deposit when the assessee has explained the source. Learned Counsel for the Assessee further submitted that if we consider the additions made by the Assessing Officer towards cash deposit, it amounts to double addition because the sales has already been taxed and once again the Assessing Officer has taxed the cash deposits which is out of from same cash sales declared by the assessee in his books of accounts. Therefore, she submitted that addition made by the Assessing Officer should be deleted.

6. Dr. Sachin Kumar, Sr. AR for the Revenue, on the other hand, supporting the order of the learned CIT(A) submitted that mere documentary evidences are not

sufficient to establish the genuineness of the transaction in all situations. Documents must also stand the test of human conduct, surrounding circumstances and preponderance of probability. In the present case, going by the observations of the Assessing Officer and the learned CIT(A), there is a sudden increase in sales in the month of November, 2016 when compared to earlier period of the financial year and also for the corresponding period of previous financial year and the same could be explained by the assessee with relevant evidences. The Assessing Officer and the learned CIT(A) after considering all the relevant facts has rightly treated the cash deposited into bank account as unexplained cash credits u/sec.68 of the Act and, therefore, the order of the learned CIT(A) should be upheld.

7. We have heard both the parties, perused the material on record and the orders of the authorities below. There is no dispute with regard to the cash deposited into bank account during demonetization period and explanation of the assessee with regard to source for cash deposit out of

cash sales declared in the books of accounts. In fact, there was a cash deposit of Rs.65,11,500/- in the current account of the assessee maintained with Mahesh Bank, Himayatnagar and as against this, available cash in hand as per cash book maintained by the assessee as on 08.11.2016 was at Rs.80,53,566/-. The assessee has explained the source for cash deposit out of cash in hand available as per books of accounts which is further supported by sales declared for the month of October and November, 2016. The assessee has filed a comparative chart of total sales, cash sales, cash deposited for the period from April, 2016 to November, 2016 and also the corresponding period of previous financial year. The assessee had also filed three financial years cash sales right from financial year 2014-2015 to 2016-2017. From the details filed by the assessee, we find that there is no abnormal increase in total cash sales for the year under consideration when compared to two preceding financial years. Further, although, the Assessing Officer has observed that there is a sudden increase in cash sales for the month of November, 2016, in

our considered view, it is incorrect to compare cash sales for the month of November, 2016 alone just because the said month is the demonetization period. Therefore, in our considered view, when the assessee has explained the reasons for increase in sales for the month of November, 2016 and further, it is not even the case of the Assessing Officer that the product dealt by the assessee is having sales throughout the year, the reasons given by the Assessing Officer to disbelieve the claim of the assessee for source for cash deposit cannot be appreciated. Further, the Assessing Officer has arrived at a conclusion on the basis of his own assumption of cash sales prior to demonetization period and during demonetization period without appreciating the fact that the sales are never predictable and just because the sales are high in the period of demonetization, the Assessing Officer cannot assume that such sales were fictitious sales and more particularly, when the assessee has submitted relevant sale bills in respect of sales. Since the assessee is having sufficient cash in hand as on 08.11.2016, as per the cash book maintained for the period, in our considered

view, the explanation of assessee with regard to source for cash deposit into bank account during demonetization period ought to have been accepted by the Assessing Officer. The learned CIT(A), without considering the relevant facts, simply sustained the additions made by the Assessing Officer towards cash deposit as unexplained cash credits u/sec.68 of the Act. Thus, we set aside the order of the learned CIT(A) and direct the Assessing Officer to delete the additions made towards cash deposit u/sec.68 of the Income Tax Act, 1961.

8. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 16.04.2025

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 16th April, 2025

VBP

Copy to

1.	Shyam Sunder Baheti, Plot No.3, Survey No.7, RK Puram, Saroornagar, Hyderabad – 500 036.
2.	The Income Tax Officer, Ward – 9 (4), IT Towers, AC Guards, Masab Tank, Hyderabad – 500 004. Telangana
3.	The Pr. CIT, Hyderabad.
4.	The DR ITAT “B” Bench, Hyderabad.
5.	Guard File.

//By Order//

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