

आयकरअपीलीयअधिकरण, चण्डीगढ़न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A",
CHANDIGARH

HEARING THROUGH: HYBRID MODE
श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 668 /Chd/ 2024
निर्धारणवर्ष / Assessment Year : 2017-18

Jeewan Nath Jagan Nath Hatkot, Solan Himachal Pradesh-173207	बनाम	The DCIT ACIT Circle Parwanoo
स्थायीलेखासं. / PAN NO: AABFJ4767C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Vishal Mohan, Sr. Advocate with
Shri Abhinav Bazwaria, Advocate (Virtual)
राजस्व की ओर से / Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr. DR

सुनवाई की तारीख / Date of Hearing : 09/04/2025
उदघोषणा की तारीख / Date of Pronouncement : 22/04/2025

आदेश / Order

Per Laliet Kumar, J.M:

The present appeal has been filed by the assessee against the order dated 22.05.2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, for the Assessment Year 2017-18, whereby the addition made by the Assessing Officer under Section 69A of the Income Tax Act, 1961, has been upheld.

2. The assessee has raised the following ground of appeal:

"That in the facts and circumstances of the case, the learned Assessing Officer was not justified in holding the cash receipts for the month of October 2016 and from 01.11.2016 to 08.11.2016 amounting to Rs. 1,40,05,602/- as inflated and thereby taxing the

same under Section 69A of the Income Tax Act, 1961. The addition made is absolutely illegal and not sustainable in the eyes of law. That the order of the learned AO is bad in law and on facts."

3. The assessee is engaged in the trading/sale and purchase of food grains and Karyana items under the name and style of M/s Jeewan Nath Jagan Nath. The return of income for the relevant year was filed declaring a total income of Rs. 69,95,840/-. The case was selected for scrutiny under CASS guidelines and notice under Section 143(2) was issued.

4. During the assessment proceedings, it was noticed that the assessee had deposited cash aggregating Rs. 2,53,99,000/—between 08.11.2016 and 30.12.2016, out of which Rs. 2,02,34,000/—was in demonetized currency notes. Notices under Section 142(1) were issued calling for details such as the source of cash deposits, a comparative chart of cash sales for preceding years, a cash book for FYS 2015-16 and 2016-17, and party-wise details of cash sales.

5. In response to the statutory notices, the Assessing Officer noted that only partial compliance was made by the assessee. Only part of the FY 2016-17 (01.09.2016 to 08.11.2016) was submitted, while the FY 2015-16 cash book was not furnished. It was submitted that the cash deposits had arisen from cash sales due to Diwali festive season.

6. Upon verification, it was observed by the Assessing Officer that the cash in hand as on 08.11.2016 stood at Rs. 2,10,87,672/-, which was abnormally high compared to Rs. 28,05,247/- as on 08.11.2015 and Rs. 1,17,01,652/- as on 08.11.2017. The cash sales bills submitted were found to be lacking the necessary buyer details.

7. The Assessing Officer carried out a comparative analysis of cash receipts, which revealed that the cash proceeds reported for October 2016 and from 01.11.2016 to 08.11.2016 were significantly inflated compared to previous years. It was inferred that the assessee had inflated cash sales to explain the cash deposits post-demonetization.

8. Based on detailed working, it was concluded, by the Assessing Officer that an amount of Rs. 1,40,05,602/- (comprising Rs. 89,46,883/- for October 2016 and Rs. 50,58,719/- for 01.11.2016 to 08.11.2016) represented inflated cash receipts. This amount was added under Section 68 of the Act, alternatively under Section 69A, and the assessed income was determined at Rs. 2,10,01,442/-.

9. Aggrieved by the assessment order, an appeal was preferred before the CIT(A). Written submissions were made by the assessee wherein it was contended that all cash transactions were duly recorded in the books of account, and cash receipts during festive seasons were higher by the nature of the business. Reliance was placed on various judicial pronouncements.

10. After considering the submissions, it was observed by the CIT(A) that the cash sales bills produced were not verifiable. The explanation furnished by the assessee regarding the cash in hand and the surge in cash sales remained unsubstantiated by credible evidence.

11. It was further held by the CIT(A) that as per the settled position of law laid down by the Hon'ble Supreme Court in the cases of Chuharmul vs. CIT and Shashi Garg vs. PCIT, the burden to explain the nature and source of the cash deposits lies upon the assessee. Since the assessee failed to discharge this burden satisfactorily, the addition made by the Assessing Officer was confirmed.

12. The assessee filed an appeal against the order of the CIT(A). The assessee challenged the confirmation of the addition made by the Assessing Officer, arguing that the cash receipts were genuine and supported by business practices during the festive season.

13. The Ld. AR for the assessee submitted that during the period of demonetization, the total cash deposit made by the assessee amounted to Rs. 2,53,99,000/-, which was duly recorded in the books of account. Out of the said amount, cash deposits to the tune of Rs. 1,14,65,702/- were accepted by the

Assessing Officer, and the balance amount was added to the income of the assessee.

14. It was further contended by the Ld. AR that the assessee was engaged in the same line of business, namely trading of food grains, and the assessee's turnover during the year under consideration exceeded Rs. 31 crores. The Ld. AR submitted that the cash deposited in the bank account was on account of seasonal sales arising during the Diwali festival, which coincided with the demonetisation period. It was submitted that the assessee had provided party-wise details of cash received and payments made before the Ld. Assessing Officer as well as the Ld. CIT(A). It was contended that the entire money was deposited in one go in the bank account and utilised for making vendor payments.

15. The Ld. AR also submitted that all the entries pertaining to the cash deposits were duly reflected in the books of account. Therefore, the view taken by the lower authorities in making the addition under Section 68 of the Act was not justified. It was contended that once the books of account had been accepted, there was no basis for making a separate addition in respect of the cash deposits merely because they were made during the demonetisation period.

16. It was further submitted that the conclusions drawn by the lower authorities were without any cogent basis, as no comparable instances had been cited or placed before the Tribunal to justify such addition. The Ld. AR submitted that the assessee had been regularly filing VAT returns every month, and there was a continuous and consistent pattern of sales and purchases over the past years, with no abnormal spike during the year under consideration. Therefore, it was submitted that the addition made by the lower authorities was unjustified and liable to be deleted.

17. On the other hand, the Ld. DR supported the orders of the lower authorities and submitted that the additions made were justified and should be confirmed.

18. We have heard the rival contentions and perused the material available on record. It is not in dispute that the Assessing Officer has accepted the books of account filed by the assessee. The turnover of the assessee was Rs. 31 crores, and during the demonetization period, cash sales amounting to Rs. 2,53,99,000/- were recorded. The Assessing Officer, based on certain calculations, concluded that there was inflation of sales to the extent of Rs. 1.40 crores and proceeded to make an addition on the assumption that cash deposits were made out of demonetized currency.

19. However, there is no material on record to show that the sales were inflated or that the deposits were made out of unaccounted cash. It is noted that the assessee's cash book, stock register, and VAT records were duly produced and verified, and no discrepancies were pointed out therein. It is also noted that the festive season of Diwali, which generates higher sales, coincided with the demonetization period, unlike the preceding year when the timing differed. Therefore, a mere comparison with previous years' figures without considering the seasonal impact is not sufficient to draw an adverse inference.

20. Further, the cash on hand as per the books prior to the demonetization period was verifiable and matched with the records filed, and no adverse findings have been recorded by the lower authorities on this aspect. In such circumstances, when the turnover, stock records, and cash flow are duly explained and supported by evidence, and no purchaser has been disbelieved, the addition made on mere assumptions and conjectures is not sustainable.

21. Given the above discussion, we hold that the addition made by the Assessing Officer and confirmed by the CIT(A) is without merit and is accordingly deleted. The assessee's appeal is allowed.

Order pronounced in the open Court on 22/04/2025.

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)

न्यायिक सदस्य /JUDICIAL MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar