

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD “A” BENCH: HYDERABAD

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

ITA.No.988/Hyd./2024
Assessment Year 2017-2018

Ramakrishna Teletronics Private Limited, Hyderabad – 500 004 PAN AAECR1168F	vs.	The Income Tax Officer, Ward-3(2), Hyderabad Telangana.
(Appellant)		(Respondent)

For Assessee :	CA P Murali Mohan Rao
For Revenue :	MS. U. Mini Chandran, CIT-DR

Date of Hearing :	22.04.2025
Date of Pronouncement :	24.04.2025

ORDER

PER MANJUNATHA G. :

This appeal has been filed by the appellant-company against the order dated 20.03.2024 of the learned CIT(A)-National Faceless Appeal Centre [in short the “NFAC”] Delhi, relating to the assessment year 2017-2018.

2. At the very outset, there is a delay of 134 days in filing the appeal before the Tribunal. The assessee has filed a petition for condonation of delay contending *inter alia*,

that, the assessee could not file the appeal in time because he has not received the certified copy of the order from the department. He, therefore, made an application to the Department with a request to provide the certified copy of the order of the learned CIT(A) and on receipt of the order of the learned CIT(A), the assessee had filed the present before the Tribunal with a delay of 134 days before the Tribunal. Thus, he was prevented by a reasonable cause in filing the appeal within the stipulated period. He, accordingly prayed that the delay of 134 days in filing the appeal may please be condoned in the interest of justice.

3. We have heard both the parties and perused the petition filed by the assessee for condonation of delay of 134 days in filing the appeal before the Tribunal. We find that, there is a reasonable cause and sufficient cause in not filing the appeal before the Tribunal within the stipulated time in absence of getting certified copy of the order of the learned CIT(A) from the Department. We, therefore, condone the delay of 134 days in filing the appeal before the Tribunal and proceed to decide the appeal for adjudication.

4. The assessee has raised the following grounds in the instant appeal :

1. *“The order of appeal passed by the Ld. CIT(A) u/s 250 of the Act dt. 20.03.2024 is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.*
2. *The Ld. CIT(A) erred in partly allowing the appeal.*
3. *The Ld. CIT(A) erred in confirming the addition of Rs.3,00,87,680/-made towards unexplained income u/sec.69A of the Act.*
4. *The Ld. CIT(A) ought to have appreciated that all the cash deposits made by the assessee are affected through cash sales on which company had paid the VAT/sales tax which proves the genuinity of the transaction.*
5. *The Ld. CIT(A) ought to have appreciated that the assessee paid the VAT/ sales tax for the November and December months in which clearly establishes that the intent of the assessee is not to evade the taxes to the government.*
6. *The Ld. CIT(A) ought to have appreciated that merely for the reason that the assessee has accepted specified bank notes in violation of circulation/notification issued by the Government of India and RBI, the source explained for the cash deposits cannot be rejected.*

7. *The Ld. CIT(A) erred in not considering that to the extent of addition made by the A.O the assessee had already offered the tax to the government in the form of sales. Then the addition made by the A.O will amounts to double taxation.*
8. *The Ld. CIT(A) ought to have appreciated that the addition made on the sole ground of deviation in the ratio of cash sales and cash deposits during the demonetization period with that of earlier period, is improper and unlawful.*
9. *Without prejudice to other grounds, the Ld. CIT(A) erred in estimating the net profit margin at 10% on the impugned sales without any reasonable basis which is against principles of natural justice.*
10. *Without prejudice to other grounds, the Ld. CIT(A) erred in not considering the net profit margins of the assessee for the year under consideration and for subsequent years, for the purpose of estimation of net profit margin.*
11. *Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”*

5. Briefly stated facts of the case are that, the assessee-company incorporated on 18.09.2008 and engaged in retail trading in electronic goods and had 11 branches /

outlets in Andhra Pradesh and Telangana with brand name "Yes Mart". The assessee-company has filed its return of income on 31.03.2018 admitting the total loss at Rs.7,18,806/- and admitted the book profit u/sec.115JB of the Income Tax Act, 1961 [in short "the Act"] at Rs.14,46,191/- for the impugned assessment year 2017-2018.

5.1. The case of the appellant-company has been selected for 'complete scrutiny' under CASS and various notices u/sec.143(2)/142(1) of the Act were issued and served on the appellant-company. Since, the assessee failed to respond to the statutory notices, the Assessing Officer issued show cause notice dated 10.12.2019. In response, the Authorised Representative of the appellant-company appeared in person and thereafter, filed its submissions. The Assessing Officer after considering the submissions of the appellant-company noted that, the appellant-company had deposited huge amount of cash during the year under consideration. Therefore, the Assessing Officer asked the appellant-company to furnish the details of cash deposits

into the bank account along with sources. In response, the appellant-company has submitted that, the appellant-company is dealing in purchase and sale of electronic goods having 11 outlets and the cash deposited in the bank account represents the cash sales affected in all its outlets and that, the sales are accounted for in its books of accounts and all the cash deposits appearing in the bank account represents the sales at all its outlets and that the cash deposits are supported by the system of control having the bills which were reflected in the books of accounts. The appellant-company also submitted the month-wise details of cash sales, credit sales and the cash deposits made into the bank account which are duly tabulated by the Assessing Officer at page-3 of the assessment order for the month of April, 2016 to January, 2017 under the respective Heads i.e., 'Cash Sales'; 'Card/Credit Sales'; 'Total Sales' and 'Cash Deposits'. Further, the Assessing Officer also noted VAT returns reflecting the business done by the showrooms at Visakhapatnam and Abids Branch, Hyderabad for the month of April, 2016 to January, 2017 under the Heads

“Total sales as per VAT returns of showroom at Visakhaptnam; Total sales as per VAT returns of showroom at Abids, Hyderabad and Total Sales as per VAT returns which particulars are noted by the Assessing Officer in his assessment order at page-5 of the order. However, the appellant-company had not filed it’s books of accounts and audit report in Form 3CA and 3CD before the Assessing Officer.

5.2. The Assessing Officer after considering the submissions of the assessee noted that, the Government of India on 08.11.2016 has announced demonetization of Rs.500 and Rs.1000 notes from legal tender status w.e.f. 09.11.2016. The appellant-company had deposited a sum of Rs.2,85,04,430/- in the month of November, 2016 and in the month of December, the appellant-company had deposited a sum of Rs.15,83,250/- in total Rs.3,00,87,680/-. The Assessing Officer noted that since the appellant-company is not one of the entities authorized by the Central Government to accept SBNs during demonetization period in exchange for goods/services and

that, the appellant-company has failed to prove the source for such SBNS and in absence of the same, the Assessing Officer treated the entire deposits made in the months of November, 2016 and December, 2016 to the tune of Rs.3,00,87,680/- as unexplained money u/sec.69A of the Act, and added to the total income of the appellant-company.

5.3. The Assessing Officer further noted the net profit of Rs.6,22,79,810/- @ 10% on the total sales of Rs.62,27,98,099/- besides making addition on account of FD interest admitted in the return of income at Rs.9,15,783/- and contract income admitted in the return of income by the appellant-company Rs.13,17,146/- and accordingly, determined the total income of the appellant-company at Rs.9,46,00,419/- vide order dated 30.12.2019 passed u/sec.143(3) of the Income Tax Act, 1961.

6. On being aggrieved, the assessee carried the matter in appeal before the learned CIT(A). The learned CIT(A) has issued various notices u/sec.250 of the Act dated 05.02.2021, 03.11.2021, 05.07.2023, 03.08.2023,

05.10.2023, 02.11.2023 and 26.02.2024. Since, there was no compliance from the side of the appellant-company, the learned CIT(A) has sustained the addition made by the Assessing Officer on account of unexplained money of Rs.3,00,87,680/- and net profit of Rs.6,22,79,810/- estimated by the Assessing Officer @ 10% and remitted the additions made on account of FD interest of Rs.9,15,783/- and contract income of Rs.13,17,146/- to the file of Assessing Officer to examine whether these receipts were already included in the income declared in the return or not. Accordingly, the learned CIT(A) partly allowed the appeal of the appellant-company.

7. Aggrieved by the order of the learned CIT(A), the appellant-company has carried the matter in appeal before the Tribunal.

8. CA P. Murali Mohan Rao, Learned Counsel for the Assessee submitted that, the Assessing Officer and the learned CIT(A) are erred in law in making addition of Rs.3,00,87,680/- as unexplained money u/sec.69A of the Act, without appreciating the fact that the said sum is out of

cash sales and cash/credit sales for the month of November, 2016 and December, 2016 affected in all of its 11 outlets. He submitted that, the appellant-company has also paid the VAT/sales tax for the months of November,2016 and December,2016 to prove that the appellant-company had paid taxes to the Government. It was the submission of the assessee that to the extent of the addition made by the Assessing Officer, the appellant-company had already paid the due taxes to the Government in the form of VAT tax and again making addition will amount to double taxation which is not sustainable in the eye of law. The Learned Counsel for the Assessee further submitted that, since the appellant-company has explained the source of the cash deposit and merely because the appellant-company has accepted specified bank notes in violation of notification issued by the Government of India and RBI, the cash deposit into the bank account made by the appellant-company for the months of November, 2016 and December, 2016 to the tune of Rs.3,00,87,680/- cannot be rejected. He submitted that, the Assessing Officer

estimated the net profit margin @ 10% on the impugned sales without any basis and without taking into consideration of the net profit margins of earlier years and subsequent years. He, therefore, submitted that, the order of the learned CIT(A) in sustaining the addition made by the Assessing Officer should be deleted in the interest of justice.

9. MS. U. Mini Chandran, CIT-DR for the Revenue, supporting the order of the learned CIT(A) submitted that, the Assessing Officer has made the impugned addition Rs.3,00,87,680/- as unexplained money u/sec.69A of the Act towards the cash deposits made by the appellant-company during demonetization period for the month of November, 2016 and December, 2016. She submitted that, the appellant-company had not filed its books of accounts and audit report in Form 3CA and 3CD for verification before the Assessing Officer. Further, the appellant-company is not one of the entities authorized by the Central Government to accept SBNs during demonetization period. In absence of books of accounts, audit report in prescribed Forms, the Assessing Officer has rightly treated the cash

deposited into the bank account as unexplained money u/sec.69A of the Act and also estimated the net profit @ 10% i.e., Rs.6,22,79,810/- on the total turnover. Even during the course of appellate proceedings despite several notices issued by the learned CIT(A) u/sec.250 of the Act, the appellant-company did not chose to appear before the learned CIT(A) to substantiate it's claim. Therefore, the learned CIT(A) rightly sustained the additions made by the Assessing Officer. She accordingly submitted that the orders of the authorities below should be confirmed.

10. We have heard both the parties, perused the material on record and the orders of the authorities below. It is an admitted fact that, the assessee is engaged in the business of retail trading in electronic goods. Further, there is no dispute between the parties that, the appellant-company was asked to furnish the details of cash deposits into the bank account along with sources and accordingly the appellant-company had furnished month-wise, cash sales, card/credit sales, total sales and cash deposits into bank a/c. The Assessing Officer also accepted the cash

deposit made by the appellant-company for the month of November, 2016 and December, 2016 to the tune of Rs.3,00,87,680/-, however, treated the same as unexplained money u/sec.69A of the Act as the said sum deposited in the bank a/c falls during demonetization period. We find that, the appellant-company itself has furnished details of cash sales and cash deposited into the bank a/c and thereby, proved the source of it's deposit into bank a/c out of sales from 11 units of appellant-company. Further, the appellant-company had also paid due VAT/sales tax to the Government, for which, there is no dispute. However, the Assessing Officer had not satisfied with the explanation furnished by the appellant-company and made the impugned addition of Rs.3,00,87,680/- as unexplained money in the hands of the appellant-company in absence of audit report and Form 3CA and Form 3CD report. Similarly, the Assessing Officer also estimated the net profit @ 10% i.e., Rs.6,22,79,810/- on the total turnover of Rs.62,27,98,099/-. In this view of the matter and considering the facts and circumstances of the case, we are

of the considered view that, the matter needs *de novo* verification and adjudication by the Assessing Officer by calling audit report and Form 3CA and Form 3CD reports from the appellant-company and after verification of the said reports, decide the matter in issue in accordance with law, after providing due opportunity of hearing to the appellant-company. Accordingly, the grounds raised by the appellant-company are allowed for statistical purposes.

12. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 24.04.2025

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT
Hyderabad, Dated 24th April, 2025
VBP
Copy to

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

1.	Ramakrishna Teletronics Private Limited, Hyderabad. C/o. P. Murali & Co. Chartered Accountants, 6-3-655/1/3, Somajiguda, Hyderabad 500082.
2.	The Income Tax Officer, Ward-3(2), Hyderabad, Telangana.
3.	The Pr. CIT (Central), Hyderabad.
4.	The DR ITAT "A" Bench, Hyderabad.
5.	Guard File.

//By Order//

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