


IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND SHRI UDAYAN DAS GUPTA, HON'BLE JUDICIAL MEMBER

ITA No. 635/Jodh/2024
(Assessment Year 2017-18)

Asstt. Commissioner of Income Tax, Aayakar Bhawan, Paota 'C' Road, Jodhpur.	Vs.	HRDK Bullion and Refinery Private Limited, Ram Piyara Bhawan, Ghachiyo Ka Bass, Jodhpur. PAN No. AADCH1950L
Assessee by	Shri Mayank Taparia, Advocate	
Revenue by	Shri Karni Dan, Addl. CIT (Sr. D.R.)	
Date of Hearing	11.02.2025.	
Date of Pronouncement	20.03.2025. 	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal by the revenue is directed against the order of National Faceless Appeal Centre, Delhi [in short NFAC/CIT(A)] in respect with Assessment Year 2017-18 where the department has taken the following grounds of appeal:

- "1. Whether in the facts & circumstances of the case Id. CIT(A) is justified in deleting the addition of Rs. 1,22,52,334/- made u/s 68 after rejecting books u/s 145(3), when AO has established in assessment order that books of accounts the assessee could not be relied as proper stock register was not maintained by the assessee and sale bills produced by the assessee did not contain name of item sold, gross weight, net weight and labour charges.



2. *Whether Id. CIT(A) is justified in holding that increase in cash sales of Rs. 3 Cr. Approx in a period of 7.25 months is commensurate with the figures of increase in annual turnover i.e. 18 Cr. Approx, by ignoring the fact that in percentage terms increase in turnover during A.Y. 2017-18 was only 85% (Rs. 38.37 Cr. From 20.72 Cr.) whereas cash sales during first 7.25 months of A.Y. 2017-18 increased by 528% as compared to proceeding years (Rs. 3.65 Cr. From 0.58 Cr.).*
3. *Whether the Id. CIT(A) is justified in deleting the addition by not giving any finding on observation of AO regarding test of human probability when there was abnormal increase of 288% in cash sales shown by assessee during 01.10.2016 to 08.11.2016 as compared to sales from 01.04.2016 to 30.09.2016 whereas there was a fall of 27% of the same during corresponding period in preceding year.*
4. *That the tax effect involved in this case is above the limit laid down in Circular No. 05/2024 dated 15.03.2024 issued by the CBDT, New Delhi."*

2. The crux of the issue challenged by the department is that CIT(A) has not given any finding to the Assessing Officer's (In short "the AO") observation on human probability test when there was an abnormal increase in cash sales during demonetization period.

3. Briefly the facts as per record are that the assessee is engaged in the business of wholesale trading in Gold Bullion and also trading and manufacturing of jewellery in the name and style of M/S. H.R.D.K. Bullion & Refinery (P) Ltd. During the year under consideration, on turnover of Rs.38,97,91,375/-, the assessee has shown gross profit of @ 4.16% and net profit of 0.92%. The turnover of the assessee has been increased by Rs.17,69,70,589/- i.e., 83.15% as

compared to the preceding year. During the demonetization period, the assessee has deposited cash in its bank accounts as detailed under:

S.No.	Account No.	Bank	Amount
	4163400000283	Yes Bank	2, 15,31 ,500/-

4. The AO has stated in its order that "On perusal of month wise purchase and cash sale details filed along with the submission 07.11.2019, it was found that in the month of October and November 2016 there was cash sales of Rs.1,05,51,398/- and Rs. 1,61,37,368/- respectively. Further to mention that as per date stock details, there was cash sales of Rs. 1,18,49.690/- and sales on credit and banking channel was of Rs. 14,32,900/- on 08.11.2016. The total cash sales from 01.11.2016 to 08.11.2016 was shown at Rs. 1,59,71,694/- after the date of 08. 11. 2016 i.e. from 09.11.2016 to 31.12.2016 total cash sales was of Rs.1,81 ,554/- only. Thus, the AO observed that "it is clear that the assessee has channelized his own unaccounted money in the business in the name of sales to customers and the cash sales during the month of Oct. 2016 and Nov. 2016 (up to 08.11.2016), would not be more than Rs.92,79, 166/-. Hence, the excess cash deposit of Rs. 1,22,52,334/ (Rs.2, 15,31, 500- Rs.92, 79, 166] claimed in the garb

of cash sales amounting to Rs. 1,22,52,334/- is taxed treating it as income of the assessee u/s 68 of the Income-tax Act, 1961.

5. The assessee being aggrieved with the assessment order went in appeal before the learned CIT appeal who has granted relief to the assessee by observing as under:

1. The appellant assessee in its' submissions have stated that "Complete day to day records in form of cash book, ledger, stock register & sales, purchases bills are maintained by assessee. The accounts of assessee are subject to tax audit u/sec. 44AB of Income Tax Act, 1961. Needful Audit Report audited financial statements al/ were e-fi/ed with return & dunnng assessment proceedings. That tax audit report of the year contain full quantitative details of quantity traded, purchases sales & opening & closing stock. Only the manufactunng records kangamise are not propedy maintained by assessee. But at any stage the quantity of items traded & manufactured are having no deviation even the A O. has unable to prove the same, That further complete sales for the year & in past are subject to "SALES TAX" "VAT RETURN FILED". Thus A. O. cannot deny for corresponding purchase to sales on day to day basis. The appellant assessee with its submissions have provided documentary evidences to this appellate authority which are as following:

- i Ledger
- ii Stock register and sales
- iii Purchase bills
- iv Tax Audit report
- v Sales Tax return
- vi VAT return filed

All these documentary evidences are carefully considered by this appellate authority.

2. The appellant assessee has also provided a chart of GP and NP rates which are produced hereunder,



Asst Year	Year ended on	Total Sales (Rs.)	Income
2015-16	31.03.2015	8,01,94,416.00	69,53,818.00
2016-17	31.03.2016	20,72,29,266.00	55,91,520.00
2017-18	31.03.2017	38,37,97,674.00	59,93,791.00

3. From the perusal of the above mentioned documents provided by the appellant assessee it is noted that the assessee had made a sale of Rs 38,37,97,674/- (p&L account is hereunder reproduced).

Trading Account for the year ending 31st March, 2017

						(Amount in Rs.)	
PARTICULARS	AMOUNT	CURRENT YEAR	PREVIOUS YEAR	PARTICULARS	AMOUNT	CURRENT YEAR	PREVIOUS YEAR
TO OPENING STOCK				BY SALES		383797674	207229266
FINISHED GOODS	7277543.18	7277543.18	8667247.67	SALES	383797674	73	49
TO MANUFACTURING EXPENSES				BY DIRECT INCOME			
LABOUR PAID	224070.00	224070.00		DIRECT INCOME			
TO PURCHASE FINISHED GOODS/STOCK IN TRADE				INDIRECT INCOME	5993791.00	5993791.00	5593520.00
PURCHASE	38388691.63	38388691.63	203031425.04	BY CLOSING STOCK			
TO GROSS PROFIT		16198537.29	10464857.01	FINISHED GOODS	2277543.18	2277543.18	7277543.18
TOTAL		432589062.10	220098329.67	TOTAL		432589062.10	220098329.67

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4. The assessing officer in its Assessment order has stated that "Further, looking to the business trend of the assessee there is abnormal hike in the cash sales that too in pre demonetization period as compared to the regular sales declared either in earlier months or in preceding year. It is not out of place to mention here that there was no drastic change/downfall in the rates of gold or silver which induced the customers to make huge investment in gold jewellery during that period. In the submission, the assessee has claimed that on account of installation of new machinery, there was increase in sales not only during the demonetization period but after it also. The contention of the assessee is factually incorrect as after the date of demonetization i.e., 09.11.2016 to 31.12.2016, there was cash sales of Rs. 1, 81,554/- only, "

From the submissions and documentary evidences provided by the appellant assessee, this appellate authority is in the view that 'there was year on year growth in the total turnover of the appellant assessee, so if there (s a growth of total turnover of the appellant assessee then there will also be a growth in cash sales in the case of the appellant assessee. (Chart is hereunder produced)

Year	Period	Turnover (Rs.)	GP (%)	GP (Rs.)
2015-16	01.01.2015	99,83,08.00	8.87%	8,84,36.00
2016-17	01.04.2016	1,00,19,225.00	4.71%	4,71,00.00
2017-18	01.03.2017	89,93,701.00	4.16%	3,73,00.00

This appellate authority finds weight in the submission filed by the appellant assessee as shown by the appellant assessee in the above mentioned chart that there was sale growth from preceding year of approximately 18 Cr and increase in cash sale from preceding year (for the period 01st April to 08th November for both years is Rs. 3,06,37,053/- calculation is given below -

Assessment Year	Cash Sale from 1st April to 8th Nov
2016-17	58,02,606/-
2017-18	3,64,39,659/-
Increase In cash sales	3,06,37,053/-

Source of cash sale figure from the table given by the assessing officer in the assessment order.

From the above discussion in the opinion of this appellate authority the increase in cash sale amounting Rs 3 cr approx. in a period of 7.25 months is commensurate with the figures of increase in annual turnover i.e. 18cr approx.

In view of the above-mentioned facts from point i to v, of submission of assessee, this appellate authority finds enough weight in the evidences and submissions of the appellant assessee and hence the addition made by the AO amounting to Rs 1,22,52,334/- u/s 68 of the income tax act 1961 is deleted.

6. The Ld. Addl CIT (DR) vehemently supported the assessment order. He contended that the Ld. CIT(A) is not justified in deleting the addition of Rs. 1,22,52,334/- made u/s 68 after rejecting books u/s 145(3), when AO has


established in assessment order that books of accounts of the assessee could not be relied as proper stock register was not maintained by the assessee and sale bills produced by the assessee did not contain name of item sold, gross weight, net weight and labour charges; that considering the increase in cash sales of Rs. 3 Cr. Approx in a period of 7.25 months as commensurate with the figures of increase in annual turnover i.e. 18 Cr. Approx, by ignoring the fact that in percentage terms increase in turnover during Assessment Year 2017-18 was only 85% (Rs. 38.37 Cr. From 20.72 Cr.) whereas cash sales during first 7.25 months of A.Y. 2017-18 increased by 528% as compared to proceeding years (Rs. 3.65 Cr. From 0.58 Cr.) and that the Id. CIT(A) is not justified in deleting the addition by not giving any finding on observation of AO regarding test of human probability when there was abnormal increase of 288% in cash sales shown by assessee during 01.10.2016 to 08.11.2016 as compared to sales from 01.04.2016 to 30.09.2016 whereas there was a fall of 27% of the same during corresponding period in preceding year.

7. The defendant Ld. Counsel for the assessee supported the impugned order by reiterating the submission made before him with supporting documentary evidence as discussed in the impugned order. He contended that cash deposits made by assessee were duly recorded in books of account which were audited under various laws applicable and were supported by credible



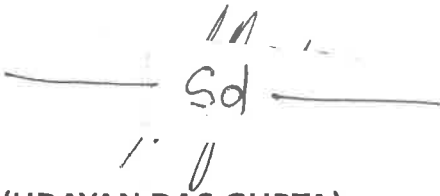
evidence like copies of invoices, stock register maintained on a day to day basis, and VAT returns filed from time to time and order of VAT authorities accepting sales made by assessee during year under consideration. Accordingly, he argued that the Ld. CIT (A) has been justified in deleting the impugned addition made under section 69A of the act and pleaded that the decision of the CIT (A) be upheld.

8. We have heard both the sides and given thoughtful consideration to the factual matrix discussed hereinabove. It is undisputed fact that there is not even a whisper of any defect, error or infirmity pointed out either by the AO or the Ld. Addl. CIT (DR), in the books of account maintained by the assessee which were audited both under the Companies Act and under the Income tax Act. The books of account have been maintained in the regular course of business and cash deposits in the books of account are duly reflected in the books of account. The AO allegation of non- maintenance of stock register is factually incorrect while making absurd computation of bogus sales on human probability test as regard to an abnormal increase in cash sales during demonetization period without disproving accounted purchases, sales and available cash in audited books and VAT Returns of the assessee to substantiate the cash deposit in the bank account.



9. From the record, it evident that the Sales made by the assessee as shown in the regular books of account have been accepted as such by VAT authorities while framing the VAT assessment. The assessee was having sufficient stock in hand for making the impugned sales during the demonetization period and it is not the case of the Assessing Officer that the assessee has shown bogus purchases to show bogus sales to cover up cash deposited during the demonetization period. Furthermore, the revenue failed to controvert the evidence produced by the Ld. AR before the CIT (A) and to rebut the availability of disputed cash in the books, on the date of deposits in the corresponding bank account, during the demonetization period.
10. Considering the factual matrix, we do not find any reason to interfere with the factual findings given on merits by of the Id. CIT(A).
11. In the result, the appeal of the Revenue is dismissed.

Order pronounced on 28.../04.../2025 under Rule 34(4) of
Income Tax (Appellate Tribunal) Rules, 1963.


Sd
(UDAYAN DAS GUPTA)
JUDICIAL MEMBER


Sd
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated 28.../04.../2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,