

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

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND DR. S. SEETHALAKSHMI, HON'BLE JUDICIAL MEMBER

ITA No. 257/Jodh/2024
(Assessment Year 2017-18)

Asstt. Commissioner of Income Tax Circle-1, Jodhpur.	Vs.	J.M. Metals, E-21 A, MIA 2 nd Phase, Basni, Jodhpur – 342003. PAN No. AACFJ6162G
Assessee by	Shri Amit Kothari, C.A.	
Revenue by	Shri Karni Dan, Addl. CIT (Sr. DR)	
Date of Hearing	06.05.2025.	
Date of Pronouncement	24.06.2025.	

ORDER

Dr. Mitha Lal Meena, A.M.:

This appeal by the revenue is directed against the order of the National Faceless Appeal Centre, Delhi [hereinafter referred to "the NFAC"/CIT(A)] dated 27.02.2024 in respect of Assessment Year 2017-18.

2. The department has raised following grounds of appeal:

"1. Whether in the facts and circumstance of the case, Ld. CIT(A) is justified in deleting the addition of Rs.78,73,000/- made u/s 68 on account of unexplained debtor realization, by failing to appreciate the fact that neither assessee was able to prove genuineness of debtors realization during assessment proceeding nor the same could be verified by way of notices issued u/s 133(6) by AO for want of reply from parities.



2. Whether in the facts and circumstance of the case, Ld. CIT(A) is justified in deleting the addition of Rs. 78,73,000/- by ignoring the fact the huge cash in hand of Rs.1,07,77,387/- shown by assessee on 31 .10.2016 is abnormally high and is not commensurate with the opening cash in hand of Rs.10,46, 141/- on 01.04.2016 and cash in hand of Rs.10,72,630/ - on 31.10.2015 in the preceding year.

3. Whether in the facts and circumstance of the case, Ld. CIT(A) is justified in deleting the addition of Rs.5,60,000/- made on the issue of unexplained unsecured loan, by failing to appreciate the fact that assessee failed to prove the creditworthiness of the lenders during assessment proceedings.

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."

3. Briefly facts as per record are that the appellant is a partnership firm, engaged in the business of manufacturing Patta and Patti, the raw material being steel ingits, and the products are sold in wholesale market. Return of income for the A.Y.2017-18 was electronically furnished on 26.10.2017 vide acknowledgement no. 25884518126101m declaring a total income of Rs. 19,45,220/-. The case was accordingly processed ws 143(1) accepting the returned income. The case was selected for complete scrutiny under Computer Aided Scrutiny Selection (CASS) and notice u/s 143(2) of the Income Tax Act, 1961 was issued from this office to assessee on 28.09.2018 by the ACIT/DCIT, Circle-1, Jodhpur, which was duly served upon the assessee in time through



Income Tax Business Application (ITBA) platform and on the assessee's email address through e-proceedings. The order u/s 143(3) of the IT Act, 1961 was passed on 29/12/2019, wherein addition on account of cash amounting to Rs. 78,73,000/- u/s 68 of the IT Act, 1961 and on account of unsecured loan amounting to Rs. 5,60,000/were made to the total income for the Assessment Year under consideration.

4. Being aggrieved by the said order, the appellant firm preferred appeal before the NFAC/CIT (A) who has granted relief to the assessee.

5. In ground no. 1 and 2 the revenue has challenged deletion of addition of Rs.78,73,000/- made u/s 68 on account of unexplained debtor realization.

5.1 The addl. CIT (DR) for the department placed reliance on the assessment order. He submitted that Ld. CIT(A) was not justified in deleting the addition of Rs.78,73,000/- made u/s 68 on account of unexplained debtor realization, by failing to appreciate the fact that neither assessee was able to prove genuineness of debtors realization during assessment proceeding nor the same could be verified by way of notices issued u/s 133(6) by AO for want of reply from parities. The DR further submitted that the Ld. CIT(A) has deleted the addition of Rs. 78,73,000/- by ignoring the fact that the huge cash in hand of Rs. 1,07,77,387/- shown by assessee on 31 .10.2016 is abnormally high and is not commensurate with the opening cash in hand of Rs.10,46, 141/- on 01.04.2016 and cash in hand

of Rs.10,72,630/- on 31.10.2015 in the preceding year. He pleaded that the assessment order may be restored.

5.2 The Ld. AR reiterated the submission made before the Id. NFAC and rely on the impugned order. The Ld. AR submitted that assessee derived income not only in this year but in preceding' and succeeding years as well. The cash deposits made during demonetization period were duly explained by the Assessee vide its submissions that the same were out of sale proceeds received in Cash from the manufacturing of the Patta Patti business. The cash deposits and withdrawal from the bank accounts were duly recorded in the day to day cash book maintained by the assessee and shown as a turnover. Therefore, treating the same cash received out of those Sales/Receipts as unexplained cash credit, is not justified. Pertinently, to establish the factum of sales made to the buyer-debtors, copies of each and every sales bill, showing quantity, rate, transporters name, transport mode, vehicle no., date and amount etc., were submitted to the AO. All the invoices raised were also bearing T/N of the buyer-debtors, which has fully established that sales were made to these buyer debtors in the past and therefore, amount remaining outstanding was receivable and realised by the appellant assessee during the relevant financial for the assessment year assessment year under consideration. The AR pleaded that the Ld. NFAC was just fair in granting relief to the assessee.



6. Heard both the sides, perused the material on record and the impugned order. We find that the Ld. CIT(A)/NFAC has discussed the facts regarding the cash realisation out of sales by way of relegalisation outstanding debtors. Admittedly, the fact regarding the sales invoices issued to the disputed debtors have not been disputed by the AO. It is noted that the appellant has duly charged the VAT applicable on these said invoices issued to the debtors which has also not been disputed by the AO. Furthermore, the AO had not disputed, the assesses purchases, quantitative stock and sales for the entire period.


7. From the record, it is evident that the appellant has duly submitted books of accounts, sale details, confirmations, bank statements, parties to whom sales were made. The appellant also submitted the comparative figures of statement account for Assessment Year 2016-17 and AY 2017-18 which were duly audited. The AO has not rejected the books of account for the said period too. Thus, the appellant has duly discharged its burden of proof. It is a settled law that once the adequate evidence/material has been provided before the AO tantamount to prima facie discharging the initial burden of proof by the assessee and the burden gets shifts on the revenue and the revenue has not discharged its onus in the given set of circumstances.

8. In our view, the mere fact that merely if the Debtors have not replied or responded to the notice issued by the department does not imply that the said



person/company is non — existent. In the present case, since the Appellant had already submitted sufficient documents with regards to the debtors and hence, the appellant cannot be penalized merely on the ground that debtors/company, failed to reply or respond to the notices issued by the Department without disproving the said sale invoices containing the TIN No of the parties. The AO ought to have examined the veracity of the sales invoices and taking the verification forward by way of taking rebuttal of the assessee on record on the alleged non-compliance by the said debtors if any.

9. In the present case, the amount deposited in the bank account was explained out of sale of various items which had been held by the appellant as stock in trade and since the deposits in the bank account were out of sale of stock which had been disclosed in the trading account against the purchase where the AO has neither doubted these purchases nor the opening and closing stock. Meaning thereby that the AO has not doubted the statement of account nor pointed out any discrepancy in the books of account under the heads stock, purchases, sales, creditors or debtors. In the present case, nothing could have been pointed out except non- compliance of notice u/s 133(6) has no evidentiary value to prove bogus debtors. In view of that matter, we are of the considered view that the Ld. CIT (A) was justified in holding that the source of cash stands explained.



10. In the case of Jet Freight Logistics Ltd. v. Commissioner of Income-tax Appeal (NF'C), Hon'ble Mumbai ITAT held that the addition u/s 68 is beyond jurisdiction of the AO as the turnover is already reflected in the books of the assessee. The Section 68 is not applicable where the subjected amounts were received from the customers towards the products sold by the assessee to them, the credit shown of outstanding amounts (realized later), are the credits which are self-explanatory and doesn't require a consideration u/ s 68 of the Act which is a law settled. This view gets support from the judgement of Jurisdiction High Court in the case of Smt. Harshila Chordiya vs. ITO (2008) 298 ITR 349 (Raj).

11. Thus, the cash received from buyers was nothing but cash against the sales and all the amounts were received on account of sale only. Once the sale is declared as income by the assessee, the question of treating the same amount as a cash credit u/s 68 of the Act would results in double addition which is not permissible in the eyes of Law. Therefore, the ground no 1 and 2 of revenue appeal are rejected.

12. In ground No. 3 department challenged that Ld. CIT(A) was not justified in deleting the addition of Rs.5,60,000/- made on the issue of unexplained unsecured loan, by failing to appreciate the fact that assessee failed to prove the creditworthiness of the lenders during assessment proceedings.



13. We find that the AO has made addition on account of unsecured loan of Rs. 2,50,000/- received by the assessee from Smt. Shipla Karnawat and Rs. 2,50,000/- from Smt. Santosh Singhal brushing aside the assessee's explanation that appellant had paid interest on these loans with deduction of TDS and that the assessee has filed copies of confirmation of the loan creditors and the amounts were received through bank transfer from bank account of creditors wherein the amounts have been lying for earlier several months. In our view, the identity, credit worthiness and genuineness of the unsecured loans stands proved, and, therefore, the addition made by the AO are rightly deleted by the Ld. CIT (A) as per settled principles of law.

14. Accordingly the order of the Ld. CIT (A) on this issue is also upheld. Thus, the ground No. 3 of the revenue is rejected being devoid of merits.

15. In the above view, we find no infirmity or perversity in the impugned order of the CIT (A) and as such, the impugned order is upheld.

Order pronounced on ²⁴...../.....⁰⁶/2025 in open Court.

- Sd/-

(DR. S. SEETHALAKSHMI)
JUDICIAL MEMBER

Dated : ²⁴...../.....⁰⁶/2025

- Sd/-

(DR. MYTHA LAL MEENA)
ACCOUNTANT MEMBER



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,
Jodhpur.

