



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No. 822/RJT/2024
(निर्धारणवर्ष/Assessment Year: (2017-18))

Naranji Rajaram Dave, 17, 17 Naranji Rajaram Dave, Suttar Vada, Porbandar, Suttar Vada, Porbandar-360575	Vs.	Income Tax Officer, wd -2(3), Porbandar-360575
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ACJPD8823B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : Shri Sagar Shah, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 09/10/2025
Date of Pronouncement : 29/10/2025

ORDER

Per, Dr. Arjun Lal Saini, A.M.:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 09.08.2024, which in turn arises out of an order passed by the Assessing Officer u/s 143(3) of the Act, on 26.12.2019.



2. In this appeal, the Assessee, has raised multiple ground of appeals, only for single issue. Therefore, we have carefully perused all the grounds raised by the assessee and we find that most of the grounds raised by the assessee, are either academic in nature or contentious in nature. However, to meet the end of justice, we confine ourselves to the core of the controversy and main grievances of the assessee. With this background, we summarize and concise the grounds raised by the assessee, as follows:

“1. On the basis of facts and circumstances of the case the learned Commissioner of Income Tax (Appeals) and Income Tax Officer has erred in the law as well as on facts, as the total cash deposited during the demonetization period amounts to Rs. 1,85,65,000/-. The assessing officer has erred in differentiating the fact that the cash deposited for an amount of Rs. 1,34,85,000/- which is generated with the same cash book out of which the SBN is also generated. The other cash deposit of Rs. 1,34,85,000/- is accepted out of the amount of Rs. 1,85,65,000/-. The assessing officer has partly accepted the cashbook to the extent of Rs. 1,34,85,000/- and for Rs. 50,80,000/- (Rs. 1,85,65,000- Rs. 1,34,85,000) lacs being the SBN he has rejected the cash book. This action of the assessing officer is not correct and legal stand of the assessing officer and thus the act of the assessing officer is illegal, bad in law as well as on facts and the addition made on this dual stands required to be quashed.”

3. Brief facts, as discernible from the orders of lower authorities are that assessee before us is an individual and has filed his return of income for assessment year (A.Y.) 2017-18, u/s 139 of the Income-tax Act, 1961, on 29.10.2017. The case of the assessee was selected through CASS (Complete) Scrutiny for A.Y. 2017-18. A notice u/s 143(2) of the Act, was issued to the assessee, on 21.09.2018, through ITBA and accordingly duly sent to the assessee on e-filing account of the assessee. Thereafter, during the course of assessment proceedings, notices u/s 133(6) of the Income-tax Act, 1961 were issued to various parties/banks. The assessing officer noticed that during the demonetization period, the Assessee has deposited Rs. 50,80,000/- in his two bank accounts of Porbandar Commercial Co-operative Bank Ltd and HDFC Bank Ltd. Therefore, assessing officer, issued show -cause notice to the assessee, to explain the cash deposit in the bank accounts.



4. In response to the show cause notice, of the assessing officer, the assessee submitted reply before the assessing officer with documentary evidences. The assessee submitted that they are registered dealer under VAT Act, 2003 as well as CST Act, 1956 vide registration number 24110100267 & 246101100267 respectively. The assessee had to follow section 60 along with rule 42 for invoicing methods as assessee's most of sales, made to un-registered person as well as of the exempted goods as declared in VAT Act. The assessee had to issue Retail invoices for such transactions. Further for computerized invoice method, it was not mandatory to mention book number but only to maintain serial number of invoice only, and as issuance of retail invoice did not amount to avail input tax credit and also there was no any strict regulations regarding stamping etc. All transactions were uploaded by the assessee to explain the assessing officer. The assessee's sales are duly recorded in books of accounts and made to genuine customers/consumers and there is no element of any bogus activity of sales or any malafide enhancement in sales figures. All relevant business transactions mentioned in assessee's books of account and explained, with documentary evidences. The reply of the remaining five parties from whom the assessee has taken advances have been received on 24-12-2019. Therefore, assessee contended that no addition should be made, on account of cash deposit in the bank account.

5. However, assessing officer rejected the above contention of the assessee and observed that documents submitted by the assessee are not genuine, hence Rs. 50,80,000/-, cash deposited by the assessee, was treated as assessee's unexplained money u/s 69A and the same was added to his total income for assessment year (A.Y.) 2017-18.

6. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has confirmed the action of the assessing officer.



On perusal of the impugned assessment order, the ld. CIT(A) noted that assessing officer has clearly discussed the matter in the Assessment Order as to why the invoices/bills, confirmations from advance parties furnished are not acceptable. The assessing officer after examining the details as on record, has noticed that the assessee has made cash deposits of Rs. 50,80,000/- in SBNs during the demonetisation period. The assessee has claimed that the amounts are received from sales of goods in cash and advances received from the debtors for purchase of goods. It is also seen that the assessee has shown advances received 39 times from 16 different parties from 01st November, 2016 to 11' November, 2016. However, no reasonable explanation was provided by the assessee regarding sudden increase in cash advance. The reason attributed by the assessee cannot be accepted as genuine as there is no valid explanation provided by the assessee. The assessing officer has also stated that the assessee has inflated cash sales and cash advance sales to explain the source of unaccounted money deposited, which is not found true applying theory of preponderance of probability in the assessee`s case. Based on these facts and circumstances, the learned CIT(A), sustained the addition made by the assessing officer.

7. Aggrieved by the order of the Ld. CIT(A), the assessee is in further appeal before us.

8. Learned Counsel for the assessee vehemently argued that during the assessment proceedings, the assessing officer has made the addition u/s 69A of the Act, by treating the cash deposits made during the demonetisation period as unexplained without considering necessary evidences and documents submitted during the course of assessment proceedings. Further, ld.Counsel stated that the addition made by the assessing officer was without bringing any tangible material on record and based on assumptions and presumptions. The ld.Counsel has stated that the assessing officer



had failed to consider the cash book, sales book, confirmation letters, bank book, books of account, audit report, etc. The assessing officer has failed to discharge his burden of proof by bringing on record any evidence or information that the assessee has not undertaken the aforesaid transactions by way of advance cash sales/cash sales. The business of the assessee is cash oriented, and therefore out of the total sales of Rs.12,41,40,286/-, the assessing officer has himself accepted the cash sales to the tune of Rs.8,56,42,000/-. Therefore, remaining cash sales of Rs.50,80,000/-, should also be accepted.

9. The learned Counsel further stated that the amounts deposited are out of cash sales and advance amount received from debtors. As such, the primary onus on assessee, has been discharged. The Id.Counsel has stated that the amount received is cash sales, which can be substantiated by the sale book and cash book and by way of audited books of accounts. The sale of 50,80,000/- has already been recorded in the books of accounts which are audited and assessee had offered the tax on the same by way of net profit. Therefore, to make again addition in the hands of the assessee for Rs. 50,80,000/-, is tantamount to double taxation.

10. The Id. Counsel also contended that the Provisions of Section 69A of the Income Tax Act, 1961, cannot be invoked in case where the transactions relating to the cash deposited into the bank account were recorded in the books of accounts and got them Audited by a Chartered Accountant and arrived the correct taxable income. The Id.Counsel has further contended that the assessing officer has accepted the books of accounts and adopted the profit arising from such books of accounts. The books of accounts of the assessee were not rejected. Further, the Id.Counsel has stated that assessee had received advances in cash for purchase of goods which were duly recorded in the books of accounts and confirmation from the cash advance parties was provided to the assessing officer. The assessee had stated during the assessment



proceedings that all the books of accounts were audited u/s 44AB of the Income Tax Act and VAT and CST has been paid which was duly recorded in books of accounts. The assessee had also contended during the assessment processing that the assessing officer has accepted the books of accounts for Non-SBNs and not accepting the same for SBNs deposited during the demonetisation is not justified. Hence, entire addition made by the assessing officer may be deleted.

11. On the other hand, learned DR for the revenue submitted that during the demonetization period, the assessee has deposited Rs. 50,80,000/- in his two bank accounts of Porbandar Commercial Co-operative Bank Ltd and HDFC Bank Ltd, and such cash deposit has not been proved by the assessee with cogent evidences. No doubt, out of the total sales of Rs.12,41,40,286/-, the assessing officer has himself accepted the cash sales to the tune of Rs.8,56,42,000/-, however, for remaining cash sales of Rs.50,80,000/-, the assessee has not submitted the documentary evidences. The contra confirmations duly signed by third parties should not be believed because the handwriting are identical to each other. Therefore, the confirmations of the third parties, to whom the assessee sold, the goods should not be considered genuine, and hence the addition made by the assessing officer should be upheld.

12. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. We note that out of the total cash sales of Rs.12,41,40,286/-, the assessing officer has himself accepted the cash sales to the tune of Rs.8,56,42,000/-. Besides, the cash was deposited by the assessee during the demonetization period amounting to Rs. 1,85,65,000/-, out of that the assessing officer has accepted cash deposited for an amount of Rs.1,34,85,000/-, as genuine.



Therefore, the assessing officer has also accepted the cash deposited, during demonetisation period to the extent of Rs. 1,34,85,000/-, as genuine business sale. However, balance, cash deposit of Rs. 50,80,000/- (Rs. 1,85,65,000-Rs.1,34,85,000), has not been accepted by the assessing officer, as genuine business sale. Therefore, out of the total case sales of Rs.12,41,40,286/-, the assessing officer rejected assessee`s cash sales of Rs. 50,80,000/-, which is only 4% of the total sales. It means assessing officer accepted 96% of cash sales, as genuine and only 4% cash sales was treated by the assessing officer, as not genuine. This discrimination made by the assessing officer is not acceptable. That is, the treatment of the assessing officer, is not acceptable, particularly when the books of accounts of the assessee are audited and said books of accounts were not rejected by the assessing officer, and based on the said books of accounts, the assessing officer treated 96% cash sales, as genuine, whereas 4% cash sales, as not genuine, despite of the fact that the assessee submitted confirmations from the parties, bank statements, cashbook, sales book, ledger account, audited books of accounts, and explained the nature of business stating that assessee`s business is cash oriented business, where the customer (agriculturalist) pay him cash. Moreover, we also find that during the pre-demonetisation period, (01.04.2016 to 07.11.2016) the assessee has received cash to the tune of Rs.5,42,65,000/-, which was accepted by the assessing officer, as genuine, cash sales. In the post demonetisation period, (01.01.2017 to 31.03.2017), the assessing officer accepted cash sales, to the tune of Rs.1,28,12,000/-. However, a small portion of sales to the tune of Rs. 50,80,000/-, was not accepted by the assessing officer, as genuine, therefore, assessee is in appeal before us.

13. We note that substantial nature and character of the main business of the assessee, which is cash oriented business, does not change, and assessee has been doing same business since long. The pith and substance of the cash sale of Rs.



50,80,000/- cannot be treated false, as the **the ‘tail’ cannot wag the ‘dog’**, when the assessing officer treated 96% cash sales, as genuine, whereas 4% cash sales, as not genuine, despite of the fact that the assessee submitted confirmations from the parties, bank statements, cashbook, sales book, ledger account, audited books of accounts, and explained the nature of business stating that assessee`s business is cash oriented business, where the customer (agriculturalist) pay him cash. We note that assessing officer has not refuted or discredited these above evidences and documents, submitted by the assessee during the assessment proceedings. The assessing officer does not mention why he is not accepting these evidences. On the contrary, the assessing officer has just brushed aside these evidences without even a word on why they are not acceptable. It is a well settled Law that when an assessee has all the possible evidence in support of its claim, they cannot be brushed aside based on surmises.

14. We have examined the nature of the business undertaken by the assessee. The assessee is engaged in the business of sale of agricultural produce, primarily dealing in "Khod" and "Bhusa". The transactions are carried out predominantly on a cash basis, in line with the prevailing trade practices in rural and agricultural markets. The cash received from such sales is subsequently deposited into the assessee's bank account in a regular and transparent manner. On perusal of the figures, it is evident that the total cash deposits in the bank during the whole year are Rs. 8,56,42,000/-, out of which only Rs. 1,85,65,000/- were deposited during the demonetization period. The assessing officer has made an addition of Rs. 50,08,000/-, out of Rs. 1,85,65,000/-. It can be clearly established that in the subsequent years as well, it is the normal course of business of the assessee and there is no magnificent huge volume of cash deposits in the year under consideration but a normal parlance of business for the assessee. The nature of the business is such that the cash is received



from the sale of the agricultural products and the same is further deposited in the bank. Further, the assessee has deposited a sum of Rs. 5,42,65,000/- during the pre-demonetization period, the source of which is not disputed, then why the source of the cash deposited during the demonetization period is doubted by the Assessing Officer. The relation of the assessee with few of the purchasers of his products is that they provide him with the advance money and subsequently the products are sold to them. This is the regular practice in business undertaken and therefore, on perusal of the cash book enclosed from page 20 to 74, of paper book, it is established that the assessee has accepted the advances from the debtor parties throughout the year and not just during the pre-demonetization period. Just because the assessee has received the advance from the trade debtors, the same cannot be alleged to be bogus. Further, in the course of assessment proceedings, notices u/s 133(6) of the I.T. Act, 1961 were issued to the IDBI Bank, HDFC Bank, PCC Bank and also to various entities for calling information related to the cash deposit made by the assessee during the year under consideration. On the basis of the same, all the notices issued u/s 133(6) were duly served to 22 parties and replies were received in all cases which proves the correctness of the book result and the facts submitted by the assessee before the assessing officer. Further, the contra confirmations of the transactions (advance taken) made by the assessee were also obtained during the assessment proceedings, which is confirmed by assessing officer while passing the assessment order u/s 143(3) of the Act.

15. On perusal of the sales register, the assessing officer has failed to appreciate the fact that most of the sales is on cash basis. The assessing officer has not considered the cash sales made by the assessee and has not given the credit of the cash sales, which already forms part of turnover of the assessee, and therefore, the same cannot be added again to the income of the assessee and taxed twice. If the parties during



the period of demonetization has purchased huge quantity on cash which has been duly recorded in the books of accounts of the assessee and also tallying with the quantity of stock, then simply because there was a huge cash sales in that particular month cannot be the reason for treating it as undisclosed income from undisclosed sources. Here in this case the parties to whom notices u/s. 133(6) were issued have confirmed the purchases and also filed the purchase bills. We find that said cash deposit was towards assessee's sale proceeds which was already offered to tax by assessee and admitted by revenue as revenue receipt, therefore impugned addition made under section 69A, resulting in double taxation, are liable to be deleted, hence, we delete the same and allow the appeal of the assessee.

16. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 29/10/2025.

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

राजकोट/Rajkot

दिनांक/ Date: 29/10/2025

Copy of the order forwarded to :

- The assessee
- The Respondent
- CIT
- The CIT(A)
- DR, ITAT, RAJKOT
- Guard File

(True Copy)

Sd/-
(DR.ARJUN LAL SAINI)
ACCOUNTANT MEMBER

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot