



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT(KZ)

ITA No.110/CTK/2025
Assessment Year : 2017-18

Tekchand Harilal, Jaleswar, Balasore	Vs.	ITO, Balasore.
PAN/GIR No. AABFT 8357 N		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra, Adv
Revenue by : Shri S.C.Mohanty, Sr. DR

Date of Hearing : 30 /06/2025
Date of Pronouncement : 30/06/2025

ORDER

The present appeal is directed at the instance of assessee against the order of Id. Addl/JCIT(A), Panchkula dated 16.12.2024 in Appeal No.CIT(A), Cuttack/10695/2019-20, passed for Assessment Year 2017-18.

2. Facts of the case are that the assessee is a firm engaged as a distributor of FMCG products of Nestle, Amul and PDS kerosene. It filed the return of income for assessment year 2017-18, disclosing total income at Rs.83,940.00. Thereafter scrutiny assessment proceeding has been initiated on the ground of abnormal increase in cash deposits during demonetisation period. Before the AO, the assessee submitted the bank

statements, purchase and sale register, cash book, bank book, month-wise cash deposits with details of deposits made for last two years. It was stated that the deposits in the bank were out of closing cash in hand available in the cash book. However, the AO did not find favour the explanation of the assessee and disallowed Rs.5,01,500/- out of total deposits of Rs.13,68,500/- during demonetisation period by applying section 69A of the Act. Besides, the AO also disallowed Rs.19,360/- i.e. 10% of carriage outward expenses on adhoc estimate basis. Aggrieved with the order of the Assessing Officer, the assessee carried the matter in appeal before the Id CIT(A) but without success.

3. At the time of hearing, Id. Counsel for the assessee stated that the Id CIT(A) has dismissed the appeal without giving adequate opportunity of hearing to the assessee. Ld AR submitted that the assessee is in the business of products of Nestle, Amul and PDS kerosene. It sells the products and collect the money from the retailers on regular basis. It was the submission that during the demonetisation period, the assessee collected the money from the retailers and deposited the same in its bank account. The said cash deposits are accounted in the books of account and the cash deposits are not on account of unexplained money and, therefore, same cannot be added u/s.69A of the Act. It is submitted by Id AR that the old SBNs deposited relates to the business receipts. The AO has

accepted it as business receipts and sales turnover, therefore, the trading receipts cannot be disallowed as unexplained money.

4. On the other hand, Id Sr DR supported the orders of the lower authorities.

5. I have heard the rival contentions and perused the material available on record. It is an admitted fact that the assessee was engaged as a distributor of FMCG products of Nestle, Amul and PDS kerosene, meaning by, the assessee deals in two business one is the sale of FMCG products and other one is distributor of subsidized govt. PDS kerosene. It is also an undisputed fact that the assessee had deposited the amount for the entire financial year. It is also an undisputed fact that for the preceding assessment year and succeeding assessment year, the revenue authorities had not disputed the nature of business of the assessee and also in para 7.2 of the order, the Id CIT(A) has categorically mentioned that the assessee was having two business i.e. sale of FMCG products like Nestle, amul and other of distributor of government PDS kerosene. Para 7.2 of the CIT(A) reads as under:

"7.2 I have gone through then assessment order and relevant extract of the assessment order is reproduced as under:

2.1 During scrutiny period the assessee submitted month wise cash deposits summary for the year 2015-16 & 2016-17, copy of bank statement, purchase & sales register, cash book, bank book, computation sheet and other relevant documents. During course of

assessment proceedings, the assessee was asked to clarify the source of huge cash deposits in his bank account during demonetisation period as well as the rest of the year. The AR of the assessee explained that the assessee deals in two business one is the sale of FMCG products like Nestle, Amul and another one is distributor of subsidized Government PDS kerosene and all the deposits/credits are related to sale of his business proceeds. On verification of all the documents it is seen that the assessee has deposited total cash of Rs.7,74,38,000/- during the year 2015-16, Rs.6,79,82,000/- during the year 2016-17, & Rs.7,98,92,389/- during the year 2017-18 and similarly cash deposited for the period 9/11 to 30/12 for the year 2015-16, 2016-17 & 2-017-18 is Rs.1,00,86,000/-, Rs.1,04,33,500/- & Rs.1,05,83,589/- respectively. The assessee also submitted month-wise cash deposits during the year. In comparison to the cash deposits no such inconsistency were noticed."

Therefore, considering the entire facts of the case, I am of the view that the assessee has explained the source of cash deposits in SBNs. Further, the Id AR has relied upon a decision dated 28.6.2022 of Coordinate Bench of Visakhapatnam Bench of ITAT in the case of Polepalli Srinivasulu Gupta vs DCIT in ITA Nos.246/Viz/2021 for A.Y 2017-18, wherein, on similar facts, it was held that the sale proceeds are consistently deposited in the bank and the sale made by the assessee and the specified notes deposited by the assessee into the account are legally valid and hence, no addition is warranted on these deposits. The observations of the Co-ordinate Bench are as under:

16. We have heard both the sides and perused the material available on record and also the orders of the Authorities below. Respectfully following the judicial pronouncement in the case of Principal Commissioner of Income Tax vs. Agson Global (P) Ltd., reported in [2014] 134 taxmann.com 256 (Delhi), we note that the cash sales

made by the assessee deposited in the bank account are in accordance with law and hence the addition made by the AO is deleted. From the submissions made by Ld AR, we find that the assessee is consistently depositing the sale proceeds realized by way of cash. We also refer to the Specified Bank 13 Notes (Cessation of Liabilities Act, 2017) wherein section 5 of the Act clearly states that On and from the appointed day, no person shall, knowingly or voluntarily, hold, transfer or receive any specified bank note. Section 2(1)(a) of the Specified Bank Notes (Cessation of Liabilities Act, 2017) also refers "appointed day" means the 31st Day of December, 2016. In this context, we find that the sales made by the assessee and the specified notes deposited by the assessee into the account are legally valid and hence no addition is warranted on these deposits"

6. Respectfully following the decision of the Co-ordinate Bench (supra), as the assessee has explained the source of cash deposited in the bank during the demonetised period, the Assessing Officer is directed to delete the addition of Rs.5,01,500/-.

7. With regard to estimation done by the AO @ 10% of the carriage outward expenses of Rs.19,360/-, I am of the view that the AO is not justified in making adhoc disallowance without making any defects in the books of account. Once the AO accepts the expenses as genuine, he cannot then disallow a portion of those expenses based on estimations or percentages. Therefore, I delete the addition of Rs.19,360/-.

8. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 30/06/2025.

Sd/-
(DUVVURU RL REDDY)
VICE PRESIDENT

Cuttack: Dated 30/06/2025
B.K.Parida, Sr. PS (OS)

Copy of the Order forwarded to :

1. The Appellant : Tekchand Harilal, Jaleswar, Balasore
2. The respondent: ITO, Balasore.
3. The Addl/JCIT(A)-,Panchakula
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Asst.Registrar,
Itat, cuttack

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