

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 3247/DEL/2023  
Assessment Year: 2017-18**

<b>Diwan Saheb Fashions Pvt. Ltd., A-35, Ground Floor, Naraina Industrial Estate, New Delhi-110028.</b>	<b><u>Vs</u></b>	<b>ACIT, Circle-7(2), New Delhi.</b>
<b>PAN- AABCD5190N</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri Ved Jain, Adv.; & Shri Aman Garg, CA	
<b>Department represented by</b>	Shri Vivek Kumar Upadhyay, Sr. DR	
<b>Date of hearing</b>	14.02.2024	
<b>Date of pronouncement</b>	01.05.2024	

**ORDER**

**PER M. BALAGANESH, AM:**

This appeal, by the assessee, is directed against the order of National Faceless Appeal Centre (NFAC), dated 31.10.2023, arising out of assessment order dated 29.12.2019, passed by the Assessing Officer u/s 143(3) of the Income-tax Act, 1961, pertaining to the assessment year 2017-18.

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the addition made on account of cash deposits made during the demonetization period in the sum of Rs 2,66,27,354/- in the facts and circumstances of the case.

3. We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the business of sale and purchase of readymade garments, fabric, accessories and customized tailoring. The return of income for the Asst Year 2017-18 was filed by the assessee on 28.9.2017 declaring total income of Rs 2,04,12,120/-. The Id. AO observed that the assessee had made total cash deposits of Rs 4,78,91,000/- during the demonetization period i.e. during 9.11.16 to 31.12.16. This includes Rs 4,71,62,000/- deposited in old currency and Rs 7,29,000/- in new currency. The Id. AO sought for the complete details of cash inflow and outflow month wise for the year under consideration and also in the immediately preceding year. On analyzing the cash trend of the assessee, the Id. AO observed that there was an abnormal increase in cash sales from 1.11.16 to 8.11.16 which was not matching with the trend of cash sales in other months as submitted by the assessee. The Id. AO observed that cash sales was shown only for the period 1.11.16 to 8.11.16 by the assessee which was abnormally high as compared to cash sales from 1.11.15 to 8.11.15. Further there was an overall decrease in sales during the year under consideration when compared to financial year 2015-16. The assessee when confronted, submitted that it has three show rooms outside Delhi and three factories outside Delhi. The assessee submitted that it had reported cash sales including VAT portion thereon of Rs 4,17,46,873/-. It was also submitted that as per section 285BA of the Act read with Rule 114B of the Income Tax Rules,

there was no legal obligation to obtain PAN of the buyer if the sale bill is below Rs 2,00,000/- in cash. Since it was statutorily not required to be obtained, the assessee had not obtained the PAN of the buyers for the cash sales carried out. Further the assessee has furnished the following details before the Id. AO:-

a) Details of cash deposits made in earlier year, during the year and in succeeding years as below:-

AY 2016-17 – Rs 33,96,04,041/-

AY 2017-18 – Rs 28,16,00,985/-

AY 2018-19 – Rs 34,30,09,140/-

AY 2019-20 - Rs 38,30,02,576/-

b) Month wise bills issued for the period 1.4.2015 to 31.3.2016 and 1.4.2016 to 31.3.2017

c) Copy of sample sales bills made to various parties

d) Details of cash sales, cash receipts, cash deposits made in Financial Year 2015-16.

e) Details of cash sales, cash receipts, cash deposits made in Financial Year 2016-17 (i.e. the year under consideration).

f) Summary of Sales for Financial Year 2016-17 (i.e. the year under consideration)

g) Copy of VAT Returns

h) Details of cash sales and cash receipts for the period of October 2016

i) Details of cash sales and cash receipts for the period 1.11.2016 to 8.11.2016

j) Copy of Cash Book for the whole year

k) Copy of cash receipts

l) Copy of Inventory and receivables statement as on 31.10.2016 filed to ICICI Bank Ltd

- m) Copy of Inventory and receivables statement as on 31.12.2016 filed to ICICI Bank Ltd
- n) Details of cash sales for the period October 2016 and 1.11.2016 to 8.11.2016
- o) Details of cash receipts for the period October 2016 and 1.11.2016 to 8.11.2016
- p) Details of branch wise customer wise receipts for the period 1.10.2016 to 8.11.2016
- q) Copy of Stock Register

4. The Id. AO however disregarded the aforesaid details and observed that there is a cash sales reported by the assessee for the period 1.11.2016 to 8.11.2016 to the tune of Rs 4,17,46,873/-. The corresponding cash sales for the same period in immediately preceding year i.e. from 1.11.2015 to 8.11.2015 was Rs 1,51,19,519/-. The Id. AO accepted the cash sales only to the extent of Rs 1,51,19,519/- being the figure of earlier year and disbelieved the cash sales reported by the assessee and made an addition of Rs 2,66,27,354/- (41746873 – 15119519) in the assessment.

5. It is pertinent to note that the cash sales of Rs 4,17,46,873/- for the period 1.11.2016 to 8.11.2016 has already been offered to tax by the assessee in the return of income as the said figure is included in the total sales of 45,07,51,109/- credited in the profit and loss account. The Id. AO had ultimately completed the assessment by starting from the income returned by the assessee and further made an addition of Rs 2,66,27,354/- thereon. Hence it is only a double addition made by the Id. AO, without understanding the fundamental arithmetics and basics of accounting. The basis of addition made by the Id AO has got no support from any of the provisions of the Act. This fundamental error committed by the Id. AO had been upheld by the Id. NFAC in the instant case. Be that as it may, we find that the assessee had furnished all the requisite documents to prove the cash

deposits made by it in the bank account. Seeing the trend of total cash deposits made by the assessee in the immediately preceding year, during the year and in succeeding years, we find that there is absolutely no abnormality involved therein. It is pertinent to note that there is absolutely no allegation leveled on the assessee that the sales made by the assessee were not reflected in the books of accounts of the assessee. The assessee had duly furnished the complete books of accounts including cash book, ledger, stock registers before the Id. AO. The sales made by the assessee are duly subjected to VAT and assessee had duly suffered sales tax and had filed VAT returns accordingly. VAT returns for all the branches of the assessee are enclosed in Pages 105 to 262 of the Paper Book. Stock statement had been duly furnished by the assessee for the whole financial year 2016-17. The purchases made by the assessee in order to keep sufficient stock of goods in hand is not doubted by the revenue. The goods purchased had been duly reflected as 'goods inward' in the stock register. The goods sold by the assessee (both cash and credit) had been duly reflected as 'goods outward' in the stock register with quantity and value. There is no allegation leveled on the assessee that he had received cash in demonetized currency during the period 9.11.2016 to 31.12.2016. Hence the entire cash deposits made by the assessee stands clearly explained by proper sources drawn from the books of accounts itself. While this is so, there is absolutely no reason to disbelieve the cash sales reported by the assessee for the period 1.11.16 to 8.11.16 in the return of income by restricting it to the cash sales reported during the corresponding period in earlier year. We are unable to comprehend ourselves to accept to the aforesaid basis of addition by the Id. AO. In our considered opinion, the basis of cash sales made in the earlier financial year cannot be adopted as a parameter for accepting the cash sales made during the year. Hence we have no hesitation to hold that the basis of addition made by the Id. AO is wholly misconceived and devoid of merit.

6. In view of the aforesaid observations, we hold that the addition made by the Id. AO and upheld by the Id. NFAC, deserves to be deleted for more than one reason. Accordingly, the grounds raised by the assessee are allowed.

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

Order pronounced in open court on 01.05.2024.

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**  
**Dated:01.05.2024.**

\*MP\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI