

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri B.R. Baskaran (AM)

I.T.A. No. 2017/Mum/2021 (A.Y. 2017-18)

R.S. Diamonds India Private Limited 1402, A-Wing, Naman Midtown, Dr. Ambedkar Nagar, Senapati Bapat Marg, Elphinstone West Mumbai- 400 013.  PAN : AADCR2142J (Appellant)	Vs.	ACIT-5(3)(1) Room No. 573 5 <sup>th</sup> Floor Aayakar Bhavan M.K. Road Mumbai-400 020.  (Respondent)
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Assessee by	Shri Rahul Sarda
Department by	Ms. Naina Krishnakumar
Date of Hearing	21.07.2022
Date of Pronouncement	26.07.2022

ORDER

The assessee has filed this appeal challenging the order dated 31.8.2021 passed by learned CIT(A)-National Faceless Appeal Centre, Delhi and it relates to A.Y. 2017-18.

2. The assessee is aggrieved by the decision of learned CIT(A) in confirming the addition of Rs. 45 lakhs relating to cash deposit made into the bank account during demonetization period.

3. The assessee is engaged in the business of trading in diamond. It filed its return of income for the year under consideration declaring a loss of Rs. 2.59 crores. The Assessing Officer noticed that the assessee has deposited a sum of Rs. 45 lakhs into its bank account during demonetization period. It was explained that the above said amount represented cash balance available in its books of account, which included advance received from the customers towards sale over the counter. The Assessing Officer asked the assessee to

provide details of customer who had given advances. It was explained that each sale made to the customer was less than Rs. 2 lakhs per transaction and hence it has not collected complete details of the customers. Hence, the Assessing Officer took the view that the assessee has failed to prove cash deposits made by it during demonetization period. Accordingly, he treated the cash deposits of Rs. 45 lakhs as unexplained cash deposit and assessed the same as income of the assessee under section 68 of the Act. The Learned CIT(A) also confirmed the same.

4. I have heard the parties and perused the record. The facts that the deposit made into the bank account is from out of the books of accounts and the said deposits have been duly recorded in the books of account are not disputed. It is the submission of the assessee that it had received advance money from walk in customers for sale of jewellery over the counter and the amount so received was duly recorded in the books of account. The said amount alongwith other cash balance available with the assessee was deposited into the bank account after announcement of demonetization by the Government of India. He also submitted that the assessee has raised sale bills against the said advances in the name of respective customers. Since the transaction was less than Rs.2.00 lakhs, it was stated that the assessee did not collect complete details of the customers. Thus, it is seen that the advance amount collected from customers, the sales bill raised against them etc., have been duly recorded in the books of account. The impugned deposits have been made from cash balance available with books of account. I also notice that the Assessing Officer has not rejected the books of account. When cash deposits have been made from the cash balance available in the books of account, in my view, there is no question of treating the said deposits as unexplained cash deposit as opined by the Assessing Officer.

5. The Ld A.R relied on certain case laws which are relevant to the issue under consideration. In the case of Lakshmi Rice Mills (1974) 97 ITR 258 (Patna), it has been held that, when books of account of the assessee were

accepted by the revenue as genuine and cash balance shown therein was sufficient to cover high denomination notes held by the assessee, then the assessee was not required to prove source of receipt of said high denomination notes which were legal tender at that time. In the case of M/s. Hirapanna Jewellers (ITA No. 253/Viz/2020 dated 12.5.2021), it was held that when the cash receipts represented the sales which has been duly offered for taxation, there is no scope for making any addition under section 68 of the Act in respect of deposits made into the bank account.

6. I notice that the decision rendered in both the above said cases support the case of the assessee. Accordingly, in the facts and circumstances of the case, I am of the view that the addition of Rs. 45 lakhs made in the hands of the assessee is not justified, since the said deposits have been made from the cash balance available in the books of account. Accordingly, I set aside the order passed by learned CIT(A) on this issue and direct the Assessing Officer to delete the addition of Rs. 45 lakhs.

6. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 26.07.2022.

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 26/07/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,  
(Assistant Registrar)  
ITAT, Mumbai