

Issues in Appeals under Income Tax Of Demonetization Cases



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Shared at

Nehru Place CPE Study Circle

NIRC of ICAI

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EMPHASIZE

Study

Drafting Appeal & File

Submission & Representation

STUDY

- **Read Order carefully – Note shortcomings**
 - **Name /Status**
 - **DIN**
 - **AY**
- **Emphasise on:**
 - **Error of Facts / Law**
 - **Additions & Basis / provision to make so**
 - **Disallowances & reasons**
 - **Claims made & not allowed**
 - **Irrelevant case laws applied, if any**

STUDY

- **Calculation of taxes & interests**
- **Study the assessment proceedings records**
 - **Date wise arrangement of assessee's assessment proceeding record and flagging the relevant pages**
 - **Notice or show cause issued & its reply**
 - **Details submit /documents filed in support in respect of subject matter of assessment order**
 - **Material & evidences placed dur assessment**
 - **Event chart date wise**



3.jpg



AY 2017-18 ADDITIONS

- **Cash sales / Bogus sales**
 - **Stocks**
 - **Purchases**
 - **Trend past and future**
 - **VAT**
 - **Agreeing to net profit declared**
 - **Rejection of books**

CASH SALES

- **AO held - amount of Rs.59 Crs is hereby disallowed u/s 68 & added back to the total income of the assessee company.**
 - **Para 8 – It seems that AO has probably not understood scope of S. 68. S. 68 is not for purpose of allowability or disallowability of any deduction & moreover, question of disallowance may arise in respect of any expenditure or allowance claimed by assessee. In respect of a sale consideration, there cannot be any question of any disallowance.**
 - ***Singhal Exim P. Ltd. Vs. ITO – ITA No. 6520/Del/2018 dt. 12.4.2019***

CASH SALES

- **Only margin can be added**
 - ***ITO vs. Pavan Kumar Bhagatram Sharma – ITA No. 1652/Ahd/2011 dt. 11/4/2016***
 - ***ITO vs. Pankaj Agarwal ITA No. 7091/Del/2014 dt 16.5.18***
- **Sales can be in cash and it is hardly necessary for the seller to bother about the name & address of the purchaser -**
R.B.Jessaram Fatehchand (Sugar Deptt)
VS. CIT (1970) 75 ITR 33 (Bom)

CASH SALES

- It is but natural that if a customer makes cash purchase & lifts the goods, there is no duty cast upon seller to insist for address of the purchaser. In light of the fact that stock record was available with assessee, which evidenced making of sale, we fail to appreciate as to how any addition can be made by treating cash sales as bogus.
- *Kishore Jeram Bhai Khaniya, Prop. M/s Poonam Enterprises vs. ITO - ITA No. 1220/Del/2011 dt. 13.5.2014*

DEPOSIT AFTER WITHDRAWAL

- **Time gap!**
- **Merely because there was a time gap between withdrawal of cash & deposits explanation of assessee could not be rejected & addition on could not be made particularly when there was no finding recorded by AO or CIT(A) that apart from depositing this cash into bank as explained by assessee, there was any other purposes it is used by the assessee of these amounts**
 - **ACIT vs Baldev Raj Charla 121 TTJ 366 (Delhi)**
 - **Neeta Bareja v. ITO – ITA No. 524/Del/2017 dt 25.11.19**

OTHERS

- **Sales made in SBN itself**
- **Books rejected u/s 145**
 - **AO is not satisfied about correctness or completeness of a/cs, or**
 - **Where ICDS not followed**
- **Additions u/s 68**
- **Additions u/s 69A**
- **Penalties u/s 270A / 271AAC**

TAKE CARE

- **It is not an isolation case... but mass...**
- **Each case is different ..and should be handled differently and carefully**
- **Stay of Demand!!**

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THANKS



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