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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **ITA 165/2023 & CM Nos.13407-08/2023**

AMAR NATH HARBANS LAL ..... Appellant

Through: Mr Kapil Sharma and Mr Sushil  
Gaba, Advs.

versus

INCOME TAX OFFICER, WARD 47(5) NEW DELHI... Respondent

Through: Mr Shailendra Singh, Sr Standing  
Counsel with Mr Viplav Acharya and  
Ms Dacchita Shahi, Jr Standing  
Counsels along with Mr Akash  
Saxena, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

% **20.03.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

**CM No.13407/2023**

1. Allowed, subject to just exceptions.

**ITA 165/2023 & CM No.13408/2023** [*Application filed on behalf of the  
appellant seeking interim relief*]

2. This appeal concerns Assessment Year (AY) 2017-18.

3. There are concurrent findings of fact *qua* the appellant/assessee, to the effect that he has not been able to explain cash deposits made in his account post the demonetization period.

4. Mr Kapil Sharma, who appears on behalf of the appellant/assessee, however, says that information, *inter alia*, in the form of cash book and cash vouchers, was placed before the Assessing Officer (AO).

5. *Inter alia*, in support of his plea, Mr Sharma has drawn our attention

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to a communication dated 06.12.2019. This communication is essentially the reply to the show cause notice dated 03.12.2019 issued by the AO.

6. Mr Sharma, in particular, makes a reference to paragraphs 4 to 6 of the said communication. For the sake of convenience, the said paragraphs are extracted hereafter:

*“4. This is for your kind information that assessee is an honest tax payer and was not having any unaccounted cash and not made any bogus cash sales. This is evident from the fact that the assessee had declared higher sales as mentioned under point No.2 above U/s 44 AD of the Income Tax Act 1961. This is a well established fact that there was spike in the sales in the month of November before demonetization and the assessee had fully declared the same in the ITR for the concerned AY i.e. 2017-18.*

*5. The sales have been fully declared in the VAT Return also and same is being reconciled truly. You will appreciate the fact the assessee had filed the VAT return and didn't make any changes in the VAT return later on. This shows that the data and intent of the assessee was so accurate that no changes were required later on in the VAT return. I would like to mention here, had it been bogus sales there should be some changes in the VAT return later on as no adjustment is so perfect that it doesn't require any adjustment later on.*

*6. Cash book had been submitted online vide submission Dated 20-11-2019. Bills for the period November 2016 had been provided online vide submission Dated 08-11-2019. Reasons for huge deposit made in November and December are elaborated above. If anything else is required to complete the proceedings kindly let us know.”*

7. Unfortunately, the entire record which was placed before the statutory authorities has not been filed in this court.

8. Mr Sharma is directed to file the entire record, *albeit*, in electronic form, with the Registry of this court. A copy of the same will be furnished to Mr Shailendra Singh, who appears on behalf of the respondent/revenue, *via* e-mail.

9. We may note that AO has added 30% of the purported unexplained



cash deposits, i.e., Rs.10,20,000/-, to the appellant/assessee's income.

10. List the matter on 28.07.2023.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**MARCH 20, 2023/aj**

*Click here to check corrigendum, if any*

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