

Please prove the cash sales and explain as to why the same be not treated as cash credit under Section 68 of the Act.

Kindly refer to the captioned observation. At the outset, it is submitted that the cash sales cannot be treated as cash credit so as to be amenable to any purported action under Section 68 of the Act. In this regard, our submissions on the merits as well as on law are as under:

On merits

1. That the cash sales is on account of goods sold which are duly reflected in the inventory records of the assessee.
2. That the inventory records are produced herewith OR that the inventory records have not been rejected.
3. That the goods sold as available in the inventory records were purchased from bonafide parties (i.e. parties of purchase) against valid consideration and after due payment of applicable levies and taxes, such as GST, etc.
4. That the parties from whom these goods (so sold as cash sale) have been duly verified by your goodself OR that these parties are duly verifiable as such.
5. That there is no control of the assessee over customers, insisting for cash sales and making payment of sale consideration in cash.
6. That the goods so sold in cash have been sold after earning reasonable amount of gross profit which is duly comparable with goods sold through credit.
7. That the goods so sold in cash were sold after collecting all applicable dues and taxes, such as GST.
8. That the relevant sale invoices w.r.t cash sales are duly reflecting in the relevant returns furnished by the assessee under other applicable fiscal laws.

9. That the returns where cash sales are duly reflecting were neither revised nor even substantially altered to incorporate the cash sales at any point later.
10. That looking into the nature and volume of the business of the assessee, the cash sales cannot be ruled out.
11. That the assessee to the extent permissible is in possession of Identity proofs of the purported parties who have bought these goods. Should your goodself so desire, these proofs can be furnished.
12. That we are tabulating hereunder, the total sales, credit sales and cash sales of the assessee for the above assessment year as well as preceding and subsequent assessment year. A perusal would reveal that there is a trend of cash sales in past, in current as well in subsequent assessment year and the trend is almost comparable.

On Law

1. That there is no legal impediment as would stipulate that cash sales cannot be executed.
2. That treating the cash sales as cash credit would lead to double taxation or double jeopardy since the relevant sales with respect to which the cash sales were executed has been already offered to tax by way of credit to the profit and loss account.
3. In catena of judicial pronouncements, it has been held that cash sales cannot be treated as cash credit and some such citations as well as their operative parts are as under:
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In view of the above submissions and evidence, we hope your goodself will be well in consonance with the above stated fact position. Should your goodself is not in consonance with the above submission or evidence referred and

furnished, your goodself is requested to provide an opportunity of being heard and also to state the points of variance.