IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH MUMBAI

BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No. 244/Mum/2025
(Assessment Year: 2017-18)

JCIT – 14(1)(1) Room No. 432, 4th Floor, Aayakar Bhavan, MK Road, Mumbai – 400 020.	Vs.	M/s. Aries Agro Ltd., Plot No. 24, Aries House, Deonar, Govandi (E), Mumbai – 400043
PAN/GIR No. AAACA5035G		
(Applicant)		(Respondent)

Assessee by	Dr. K. Shivaram, Sr. Adv. & Shri Rahul Hakam
Revenue by	Shri Ram Krishn Kedia, Sr. DR

Date of Hearing	09.04.2025
Date of Pronouncement	30.04.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the revenue challenging the impugned order 26.11.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2017-18.

2. All the grounds raised by the revenue are interrelated and interconnected and relates to challenging the order of Ld. CIT(A) in deleting the additions made u/s 68 of the Act.

3. In this regard Ld. DR while relying upon the orders of AO, submitted that assessee had made substantial cash deposits in 'SBN' during the demonetization period and nature of these credits falls under '*unexplained cash credit*' within the meaning of Sec. 68 of the Act and without appreciating the said fact Ld. CIT(A) has wrongly deleted the additions made by the Ld.AO. It was further submitted that assessee could not establish the genuineness and creditworthiness of cash deposits made during the year under consideration and even the source of these credits remained unexplained. It was further submitted by Ld. DR that Ld. CIT(A) has not appreciated the fact that cash receipts from parties have been entered in the books of assessee from 01.11.2016 to 08.11.2016 i.e just before demonetization period. It was also argued and stressed by Ld. DR that all the parties from where the source of cash deposit is being claimed by the assessee have not made any cash payments in the earlier years and therefore while relying upon the decision of ***Hon'ble Supreme Court in the case of CIT vs. Durga Prasad More (1971) 82 ITR 540 (SC) and Sumati Dayal vs. CIT (1995) 214 ITR 801 (SC)***, it was submitted that the courts have laid down a test to analyze the genuineness of the entry through logical analysis by applying the test of human probability. As per Ld. DR in the instant case the subject matter transaction defies logically, practically and reasonably, therefore the

orders passed by Ld. CIT(A) be set aside and that of the AO be restored.

3. On the other hand, Ld. AR reiterated the same arguments as were raised by him before the revenue authorities and has also relied upon the order of Ld. CIT(A).

4. We have heard the counsels for both the parties, perused the material placed on record, judgments cited by respective parties and also the orders passed by the revenue authorities. From the records we noticed that it is an undisputed fact that the assessee company is a listed company in which public is substantially interest and engaged in the business of manufacturing of mineral additives for the agriculture use, micronutrients and other nutritional products for plants and animals. Assessee has 6 factories, 28 sale depots and more than 357 dealers across the country. The assessee had filed its return of income for the year under consideration on 30.11.2017 disclosing total income of Rs. 18,98,37,210/- and in support of this, assessee had placed on record Computation of Income at page No. 2 to 8 of the paper book, audited accounts at page No. 9 to 46 of the paper book and tax audit report at page No. 47 to 61 of the paper

book. Apart, assessee had also complied with notices issued by AO and submitted following relevant records:

> *i. Month wise details of sales and expenses of current year and preceding year bifurcated into cash and credit transactions.*
>
> *ii. Month wise cash sales and cash deposits from 01/04/2015 to 31/03/2016 and 01/04/2016 to 31/03/2017.*
>
> *iii. Month wise cash sales and cash deposits from 01/04/2016 to 31/03/2017.*
>
> *iv. Details of Top ten parties to whom the sales are made (including cash sales) for F.Y. 2016-17 and F.Y. 2017-18.*

5. It is also an undisputed fact that assessee had disclosed turnover of Rs. 2,29,64,72,623/- for the year under consideration and after allowing discount for early booking of P.O, a sum of Rs. 4,94,42,653/- was stated to have received and out of this a sum of Rs. 3,86,83,531/- was received from 357 clients. In this regard assessee has placed on record complete details of such clients such as names, address, PAN, amount received in cash and the sale depot from which such cash was received against the sales.

6. From the records, we also noticed that some of the customers, who had paid cash to the assessee were also enquired by AO and in their respective replies, the clients have confirmed of making payment in cash.

7. Now the only reason for making addition u/s 68 of the Act was that the cash receipts were entered in the books of assessee w.e.f 01.11.2015 to 08.11.2016 and the said parties had earlier not made any cash payments and the transactions have been through banking channel. Therefore, AO was of the view that assessee had made back dated entries of cash apart from raising other doubts as mentioned in para 5.5 of the assessment order.

8. In this regard as discussed by us, the assessee has successfully rebutted the concern / doubts raised by the AO by placing and proving on record all the relevant documentary evidences thereby discharging its onus. Therefore in such a scenario, onus shifted upon the AO to rebut the same.

9. The assessee has duly explained that these are not cash sales. However, the assessee has received the cash in payment of credit sales from the identified parties. The details of month wise cash sale and cash deposit for the F.Y. 2016-17 were also submitted. The assessee has also submitted the explanation of cash deposits and confirmations of each and every party on 06/12/2019 and in this regard documents are placed at page No. 76 to 79 of the paper book.

10. The assessee had also submitted the name, address, PAN, ledger account of confirmations of all the parties, who had made cash payments to the assessee. Even the parties had responded to the notices u/s 133(6) of the Act and confirmed making cash payments to the assessee.

11. We have also noticed that Assessee is maintaining sale register, cash book, purchase register and stock register. The accounts of the assessee are audited. The Tax Audit report was furnished which shows the quantity details of stock and the Ld.AO was satisfied and had not rejected the books of accounts and not even doubted the veracity of cash book, sale register, purchase register and the stock register.

12. Apart no discrepancy was pointed out by the AO between the book stock and actual stock. Even the sales have already been accepted by VAT department and thus in our view once the assessee has offered cash sales for taxation then the addition of cash deposits u/s 68 of the Act would lead to double taxation. Since there is no evidence with the AO to substantiate that cash deposit is not out of opening cash balance therefore the entire addition made by AO was based upon conjectures and

surmises. In this regard, we rely upon the following decisions:

> ***In ITO v. Sahana Jewellery Exports (P) Ltd [2023] 157 taxmann.com 680 (Chennai) (Trib)*** *wherein it was held that*:
>
> *Trade advances, subsequently converted into sales, cash receipts recorded in the books of account. Assessing Officer has not disputed the sales. Cash balance in the books as on 8th November 2016 is higher than the cash deposited in the Bank.*
>
> *The A.O. has not pointed out any discrepancy in purchases or stock-in-trade Purchases and sales have been accepted by GST Authorities.*
>
> *Order of CIT(A) deleting the addition is affirmed. Followed,* ***Lalchand Bhagat Ambica Ram v. CIT (1959) 37 ITR 288 (SC), Lakshmi Rice Mills v. CIT (1974) 97 ITR 258 (Pat)(HC), CIT v. Agson Global (P) Ltd (2022) 325 CTR 1 (Delhi)(HC), distinguished, Sumati Dayal v CIT (1995) 214 ITR 801 (SC), CIT v.Dugra Prasad More (1971) 82 ITR 540 (SC), Khale Khan Mohammad Hanif v. CIT (1963) 50 ITR 1 (SC)***
>
> ***Shree Bhagwati farms v DCIT ITA No 452/JP/2024 dtd 2/9/2024 (Jaipur) (Trib.)*** *(Pg. No. 205-215 Paper Book No. II) (Pg. 212 to 213)*
>
> *Addition of cash deposit deposited as books of accounts are not rejected. No evidence brought on record by AO that Assessee had any other source of income.*
>
> *In* ***Kishore Jeram Bhai Khaniya, Proprietor, M/s Poonam Enterprises v. ITO (ITA No. 1220/Del/2011) (Del) (Trib)*** *[Rel Para 6]*
>
> *It is held that cash sales offered as income cannot be added u/s 68. (Pg. No. 216- 224 Paper Book No. II) (Pg. 219 to 220)*

Kanpur Steel Co. Ltd. v. CIT [1957] 32 ITR 56 (All)(HC) (Pg. No. 225-227 Paper Book No. II) (Pg. 227)

Burden on department to show that specified Notes represented suppressed income of the assessee from undisclosed sources. Assessee is not required to prove how and when it received the specified notes. No addition can be made if explanation of Assessee is not found to be false.

Lalchand Bhagat Ambica Ram v. CIT [1959] 37 ITR 288 (SC) *(Pg. No. 228- 239 Paper Book No. II) (Pg. 237)*

When entries in books of accounts in regard to cash balances were held to be genuine and the Assessee has offered reasonable explanation no addition can be made.

13. Even the decision relied upon by the AO in ***CIT vs. Durga Prasad More (1971) 82 ITR 540 (SC) and Sumati Dayal vs. CIT (1995) 214 ITR 801 (SC)*** are not applicable as they are rendered in the context of the theory of human probability and whereas in the present case the assessee has maintained the books of accounts and there was sufficient cash balance in its books and the books of accounts of the assessee were not challenged by the AO, and thus the entries in the books of accounts, deserves to be considered as genuine.

14. Thus after considering the facts of the present case we found that the theory of human probabilities is not applicable to the facts of the present case. No new evidences or documents have been placed on record by the revenue to controvert or rebut the findings of Ld. CIT(A),

therefore we see no reasons to interfere in to or to deviate from the lawful findings so recorded by the Ld. CIT(A). Therefore, the grounds of appeal raised by the revenue stands dismissed.

15. In the result the appeal filed by the revenue stands dismissed.

Order pronounced in the open court on 30.04.2025.

Sd/-	**Sd/-**
(PRABHASH SHANKAR)	**(SANDEEP GOSAIN)**
(ACCOUNTANT MEMBER)	**JUDICIAL MEMBER**

Mumbai, Dated 30/04/2025

KRK, PS

आदेश की प्रतिलिपि ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai