



**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No.5566/DEL/2024
(Assessment Year: 2017-18)**

Anil Kumar,
Prop. Anil Trading Co.,
VPO Naultha, Near Bus Stand,
District Panipat – 132 145 (Haryana).

vs.

Income Tax Officer,
Ward 1, Panipat.

(PAN : DFHPK3060B)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Amit Kaushik, Advocate
REVENUE BY : Shri Sanjay Kumar, Sr. DR

Date of Hearing : 12.03.2025
Date of Order : 28.05.2025

ORDER

1. The assessee has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)", for short] dated 01.10.2024 for the Assessment Year 2017-18.
2. Brief facts of the case are, assessee filed its return of income declaring taxable income of Rs.4,11,070/- on 06.04.2016. The case was selected for limited scrutiny through CASS to examine the cash deposits during the year. Accordingly, notices under section 143(2) and 142(1) of the Income-tax Act, 1961 (for short 'the Act') along with questionnaire were

issued and served on the assessee. In response, ld. AR of the assessee filed the relevant information. The assessee is earning income from Kaccha Aaratia as commission income and trading of Khar, medicines used for farming. He computed his income and filed return of income u/s 44AD of the Act.

3. During assessment proceedings, A notice u/s 142(1) dated 04.10.2019 was issued to the assessee to file the information with documentary evidences for the source of cash deposit. It was also intimated to the assessee that in the absence of non-submission of the documentary evidences, the assessment will be completed ex-parte and assessment will be completed based on the information available on record. Since assessee has not filed any documentary evidences, the AO observed that assessee has made cash deposit to the extent of Rs.20,58,000/- in his bank account maintained with Canara Bank, Naultha and proceeded to make addition u/s 69A of the Act.
4. Aggrieved with the above order, assessee preferred an appeal before the NFAC, Delhi. Ld. CIT (A) issued several notices for fixing the case for hearing, however has not complied with those notices. Ld. CIT (A) dismissed the appeal of the assessee due to non-compliance and ex-parte.
5. Aggrieved with the above order, assessee is in appeal before us raising following grounds of appeal :-

“1. That in the facts and circumstances of the case the learned CIT(A) erred in law to appreciate the facts that the written submission was submitted on portal in the course appellant proceeding on dated 22.03.2024. Which has altogether not been considered by Learned CIT(A) while deciding appeal.

[Tax effect- RS.2203077 /-]

2. That the appellant has sufficient evidence to adduce to explain the source of deposit in the bank account which are out of sales proceed of the appellant business activity as such as sales of Khar, Medicines etc. and such as there was no reason for sustaining the addition of Rs.2058000/- by Learned Income Tax Officer at the time of assessment.”

6. At the time of hearing, Id. AR of the assessee submitted that assessee has filed the detailed submissions before the Id. CIT (A) vide letter dated 20.03.2024 which is placed on record at pages 33 to 37 of the paper book. He submitted that the assessee has submitted the details before the Id.CIT (A) and it is brought to my notice that the assessee has filed the return of income u/s 44AD of the Act and the cash deposits are out of the gross receipts declared by the assessee and it is brought to my notice that assessee has declared gross receipts of Rs.40,55,945/-. The Id. CIT (A) has dismissed the appeal of the assessee due to non-representation. However, he ignored the submissions submitted before him. Further, Id. AR submitted that the issue under consideration is squarely covered in favour of the assessee and he relied on the decision of coordinate Bench in the case of Narendra Kumar Gupta reported in 2023 (10) TMI 1018 in

(ITA No.1186/Del/2023) dated 11.10.2023 and he prayed that the addition may be deleted.

7. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.
8. Considered the rival submissions and material placed on record. I observed that the assessee has declared his income u/s 44AD of the Act and assessee has declared gross receipts of Rs.40,55,945/-. During the year, the AO observed that assessee has deposited Rs.20,58,000/-. He proceeded to make the addition due to non-submission of reasons for such deposits. On careful consideration, I observed that the issue under consideration is already considered by the coordinate Bench in the case of Narender Kumar Gupta (supra) and the coordinate Bench held as under :-

“7. As regards, the amount belonging to Narender Kumar Gupta and Sons HUF is concerned, we note that 44AD return has been submitted which has been accepted. The income, therefore, therein has been accepted. In such circumstances, there is no reason why the cash due of the income disclosed u/s 44AD should not be accepted. It is settled law that books of account & vouchers are not required in 44AD return. Hence, adverse inference cannot be taken that cash book & vouchers have not been maintained. The same income cannot be taxed twice once in the hands of HUF and once again in the hands of the assessee. In these circumstances, we set aside the orders of the authorities below and decide the issue in favour of the assessee.”

9. Respectfully following the abovesaid decision, I am inclined to allow the grounds raised by the assessee considering the fact that assessee has

deposited the cash out of the gross receipts which was already declared the income u/s 44AD of the Act. It is settled position of law that the person who is declaring income u/s 44AB of the Act is not required to maintain books of account and vouchers. There is no requirement to file the same before the authorities when the cash was generated out of the business for which income was already declared u/s 44AD of the Act. The cash deposits can be traced back to the gross total income of the assessee u/s 44AD of the Act. The grounds taken by the assessee are allowed.

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

Order pronounced in the open court on this 28th day of May, 2025.

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 28.05.2025
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**