IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

I.T.A. No.546/Mum/2025
A.Y: 2017-18

Rakesh Jain Shop No. 29, 2nd Floor, 126-128, Sheikh Menon St., Trimurti Estate, Kalbadevi, Mumbai **PAN – AAIPJ7359P**	Vs	DCIT – 26(1) KautilyaBhavan, Bandra, Mumbai
(Appellant)		**(Respondent)**

Assessee by	Shri Vimal Punmiya
Revenue by	Shri Annavaran Kosuri, Sr. DR

Date of Hearing	17.09.2025
Date of Pronouncement	04.12.2025

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal has been filed by the assessee challenging the impugned order dt.28.11.2024 passed under section 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2017-18. The following grounds have been raised by assessee.

1. *The Ld CIT(A) erred in making an addition of Rs.3,49,00,000/- as cash deposited in the bank during demonetization period u/s 68 treating the same as unexplained income and added the same to the income of the assessee.*
2. *The Ld CIT(A) erred in initiating penalty proceedings u/s 274 r.w.s 271AAC of the income tax act.*

3. *The Ld CIT(A) erred in charging interest 234A,234B and 234C of the act.*
4. *The appellant craves leave to add further grounds or to amend or alter the existing grounds of appeal on or before the date of hearing.*

2. The brief facts of the case are that the assessee is Proprietor of M/s Spllendid Jewellery engaged in business of Manufacturer and Reseller in Gold Bar and Ornaments. The order of assessment was passed u/s 144 r.w.s 143(3) on the ground that there was abnormal increase in cash deposit during demonetization period as compared to predemonetization period. Although assessee preferred appeal but the additions made were upheld and consequently the appeal was partly allowed.

3. Aggrieved by the order of Ld. CIT(A), the assessee has preferred appeal before us on the grounds mentioned herein above:

4. The assessee has filed an application for raising additional grounds, which is reproduced herein below:

1. "On the facts of the appellant's case and under the law, The Ld Assessing Officer has erred in rejecting books of account without issuing show cause notice and therefore the rule of natural justice h as been grossly violated the assessment order passed under section 144 rws 143(3) dated 29.12.2019 and demand notice issued under section 156 raising whooping demand of Rs 3,61,30,639/- are bad in law"

2. The Ld Assessing Officer has erred in rejecting books of account as per para 4 without issuing show cause notice and therefore the rule of natural justice violated and as such the rejection of books of accounts inter alia addition made is required to be deleted

3. On the facts of the appellant's case and under the law the addition made under section 68 of the Income Tax Act, after rejection of books of accounts under section 145, by the AO is not justifiable in law

4. The Ld AO has erred in giving finding in para 4 by observing that the assessee did not have any cutting tools in his assets and no

mentioning of making charges which is contrary to the facts on record and no specific notice given before reaching to this conclusion and therefore the addition based there on is required to be deleted

5. In absence of any specific show cause notice u s 115BBE rws 68 the proceeding itself is bad in law void ab initio and illegal and liable to be quashed with consequential relief Even on merits the assessee has proved beyond doubt that the cash deposited of Rs 34900000 is out of the sales proceeds and therefore there is no justification for applying the section 115 BBE rws 68 and therefore the addition made is required to be deleted

6. The Ld AO has erred in making the addition of Rs 34900000 since this figure of sales is already included in the amount of Rs 141,60,54,625/- and therefore the addition made is required to be deleted

5. After having heard the counsels for both the parties, we found that the same are legal in nature and it goes to the roots of the case, therefore while following the principles laid down in the decision of Hon'ble Supreme Court in the case of ***The Jute Corporation India Ltd., Vs. CIT, 187 ITR 688*** and ***The NTPC Vs. CIT, 229 ITR 383*** and also considering the facts of the present case, we allow the application for raising the additional ground and consequently the said ground are admitted to be heard on merits.

6. All the grounds raised by the assessee are interconnected and interrelated and relates to challenging the order of Ld. CIT(A) in sustaining the additions u/s 68 of the Act treating the same as unexplained income therefore, we have decided to adjudicate the same through the present consolidated order.

7 We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we found that the additions

in this case was made by the AO on account of cash deposited by the assessee during the demonetization period. In this regard Ld. AR has specifically submitted that the assessee is dealing in the business of manufacturer and reseller of gold bar and ornaments and the amount deposited in the bank is out of the cash sales and in this regard had placed on record all the required documents along with detailed submissions to counter the contentions of the AO. The addition was made by the AO primarily on the basis of statement and documents which had shown cash sales in the month of November 2016 amounting to Rs. 3,49,00,000/- and in one table the assessee has shown cash sales in the month of November 2016 at Rs. 3,44,86,172/- and arrived at a conclusion that assessee is manipulating books and also not presenting true and fair picture before revenue. It was further pointed out by the AO that the assessee had manipulated books accounts to adjust his undisclosed money and therefore the AO was satisfied that books of accounts of the assessee are not complete and correct and therefore liable to be rejected u/s 145(3) of the Act.

8. On the contrary Ld. AR made detailed submissions to counter the contentions of AO in this regard it was submitted that the AO failed to consider that the cash deposits amounting to Rs. 3,49,00,000/- is including VAT @ 1.2% whereas the Cash Sale shown in table amounting to Rs. 3,44,86,172/- is sale amount excluding VAT. It was submitted that whenever assessee receives payment from customer it is always inclusive of tax and therefore the amount of Rs. 3,49,00,000/- was rightly deposited in and amount of Rs. 3,44,86,172/- was rightly shown as sales and there is no discrepancies in the books of accounts maintained by assessee. It was also submitted that the assessee was following regular method of accounting year on year and had the same method of accounting as compared to previous years and the Books of accounts of

the assessee were duly audited U/s 44AB as well as under VAT (Form 704) and there were no adverse remark of the auditors.

9. However, AO was not satisfied with the correctness of the books of account and thus rejected the same, and proceeds to made addition on estimation, but the same were arbitrary as per assessee, as the AO had not given opportunity to the assessee to contradict the material upon which he wanted to base his estimation.

10. Ld. AR specifically pleaded that on demonetization banning of Rs. 500 and Rs. 1000 notes resulted in cash deposit in large magnitude. During that period assessee sold large quantity of gold lying in their stock in cash which was ultimately deposited in the bank account. In order to support its contention and to substantiate the same the assessee submitted following documents before the AO during the assessment proceeding.

1. *Details of top ten parties from whom the purchases are made.* ***(Pg No 169 Of Paper Book)***
2. *Details of top ten parties to whom the sales are made.* ***(Pg No 168 Of Paper Book)***
3. *All Purchases of assessee were accepted.*
4. *Without Purchases sales cannot take place.*
5. *All cash sales and credit sales entered in books.*
6. *The assessee has maintained books of account in form of Computerised Ledger, Cash Book, Bank Book, Sales register, purchase register and stock book.*
7. *Assessee accounts duly Audited by Tax Auditor and VAT Auditor.*
8. *Assessee purchases are sold to customers and balance are lying as closing stock.*
9. *Copy of cash book for AY 2017-18****. (Pg. No. 111-121 of Paper Book)***
10. *Copy of Stock Statement for AY 2017-18.****(Pg. No. 86 of Paper Book)***

11. *Copy of daily stock statement for AY 2017-18.* ***(Pg. No. 87-110 of Paper Book)***
12. *Copy of Monthly purchase and sales register for A.Y 2017-18* ***(Pg. No 123 -150 of Paper Book)****.*

11. The Ld. AR also submitted that the provisions of Section 68 of the Act cannot be applied in respect of cash deposits which have been duly recorded in the books of account and have already been considered as income in the return of income filed by the assessee. In assessee's case the assessee had duly recorded the cash sales of Rs.3,44,86,172/- excluding VAT in his books of account and had also considered it as income in the return of income and taxes have also been paid on the said amount. It was submitted that onus then shifts on the department to prove the cash deposits are not part of sale consideration.

12. We noticed that the assessee had deposited cash and had claimed the same to be the sale consideration for the period upto 8th November. The amount has been duly accounted for in the books as sale consideration. The assessee had *sufficient stock* as per *stock statement* and necessary invoices have been issued and stock had been duly adjusted in respect of the sales made by the assessee.

13. Since, the assessee had substantiated by giving necessary evidence on the basis of its books of accounts, stock register and other relevant record that the amount deposited by assessee was sale proceeds, all evidences are part of Paper Book, therefore in our view the assessee had discharged his onus and thereafter onus would be on the department to prove that amount was representing **undisclosed cash credits and not offered for taxation** income of the assessee.

14. Although the trend of cash sales in this business is being followed from years andon analysis of cash sales to cash deposit ratio, it can be

noted that whatever cash sales was recorded by the assessee for the year the same was deposited in its bank account.

15. Since the cash sales are mostly cash counter sales and it is only 2.44% of total sales. It is not necessary to provide PAN and Address of these purchasers as the cash sales was below Rs. 2,00,000/- and Income Tax Act, 1961 nowhere mentions that cash transactions below Rs. 2,00,000/- cannot take place. (Copy of sample sales bill including cash sales is part of Paper Book pg no 156-167).

16. From the records, we noticed that on the day of demonetization i.e 08.11.2016 the cash balance was of Rs.3,50,67,031/- and the deposit made in bank is out of this balance of cash sales and the same has been considered as sales in the books of account and taxes have been paid on it.

17. Even in the stock statement at pg no 86 of paper book for the year under consideration it can be noted that there was opening balance, monthly inward and outward along with closing balance and in pre-demonetization period the sale was more as it was a festive season.

18. Since, the assessee had explained to the AO that amount deposited during demonetisation period is from cash sales and such transaction is duly recorded in the books of the assessee but AO had not considered explanation of the assessee satisfactory and made addition u/s 68.

19. We are of the view that cash sales cannot be ascribed to bogus sales without bringing evidence on record, more particularly when assessee had filed Sales & Purchase details like Sales Register, Purchase Register, Sales and Purchase Invoices, Stock Register and in this regard the AO had not made any further enquiry. The assessee had also submitted following documentary evidences during assessment proceedings:-

1. Copy of Relevant Bank Statement of the assessee Copy of ITR Acknowledgement, Computation of Total Income & Balancesheet with schedules of the assessee.

2. The assessee's books of Accounts are audited and were submitted to the learned AO and there were no adverse remarks of the auditors in the said Report. Therefore, the transaction entered into by the assessee cannot be doubted.

3. Details of purchases and sales register for AY 2017-18 Details of sample sales bill

4. Details of Top ten parties wherein sale made including Name, Postal Address, PAN and amount of sales.

5. Details of top ten parties wherein Purchase made including Name, Postal Address, PAN and amount of purchase. Monthly stock summary

6. *Monthly Cash Statement*

20. Thus in this way the assessee has discharged its initial onus of proving nature and source of cash deposits which are duly recorded in the books of account and disclosed in the returns and tax has been paid on it.

21. After having considered the provisions of Sec. 68 of the Act we found that One of the fundamental requirements of Section 68 are the books of accounts. Therefore a question had arisen to the effect that whether any addition can be made u/s 68 of the Act when the AO himself rejected the books of accounts or where an order was passed u/s 144. Reliance in this regard was placed upon in the case of ***Maddi Sudarsanam Oil Mills Co vs CIT [TS-5019-HC-1959(ANDHRA PRADESH)-O] w***herein the Hon'ble Andhra Pradesh High Court held as under:

"If once the IT authorities have rejected the books, they cannot have it both ways, namely, adopting a flat rate to compute gross profits as well as rely on the books for the purposes of adding unexplained cash credits which were part of the scheme of balancing the accounts".

In Indwell Constructions vs CIT [TS-5260-HC-1998(Andhra pradesh)-O], *it was held that when the AO proposes to add back an exact item in the P&L a/c,*

he was relying on the rejected books which he cannot do, as the books have already been rejected. ***The same has been held in Devi Prasad Vishwanath Prasad Vs CIT [TS-5199-HC-1962(Allahabad)-O] & CIT vs BanwarilalBanshidhar [TS-5385-HC-1997(Allahabad)-O].***

Hence, it is a well settled principle, vide several judicial precedents, that when the books have been rejected by the Assessing Officer, or when figures are estimated, that no additions can be made based on the rejected books.

22. We also noticed that PAN requirement was made mandatory to IDENTIFY the person who is making transactions above Rs. 2 Lakh in cash. And based on that Identity the department's system can retrieve the Financial Identity & other details to keep track on that person's financial transaction & related income tax compliance. However, upon careful reading of Section 139A & Rule 114B, it is nowhere mention that the person making transaction of more than Rs. 2 Lakh is liable to file the Income Tax Return U/s 139 mandatorily.

23. Where the act prescribes a rule, it has to be strictly and mandatorily followed and further if the Statute has conferred a power to do an act and has laid down the method in which that power is to be exercised, it necessarily prohibits the doing of the act in any other manner than that has been prescribed.

24. We are further of the view that the entire sale including the sale pointed out by AO is supported by corresponding purchase whose payment had been made through banking channel. The AO had also not disputed the purchase because complete ledger of purchase as well as sale account was furnished to the AO at the time of assessment itself. In this regard reliance was placed upon the following judicial precedents.

RELIANCE PLACED ON FOLLOWING JUDICIAL PRECEDENTS:-

Sr. No.	***Citation***	***Observation***
1.	***IN THE ITAT JAIPUR BENCH 'SMC'***	*INCOME TAX : Where assessee, engaged in trading of gold and diamond jewellery*

	Jitendra Kumar Tahilramani v. Income-tax Officer IT APPEAL NO. 928 (JP.) OF 2024 [ASSESSMENT YEAR 2017-18]	*deposited cash of Rs. 50 lakhs during demonetization period in his bank accounts and claimed that said cash was proceeds of cash sales, since assessee furnished all sales invoices with complete year cash book, names, addresses and telephone numbers of person to whom cash sales were made, such sales could not be considered as unexplained money and that too when profit derived from those sales proceeds was already taxed as part of sales* *Section 68, read with section 145, of the Income-tax Act, 1961 - Cash credit (Unexplained money) - Assessment year 2017-18 -* ***Assessee deposited cash of Rs. 50 lakhs in his bank account during period of demonetization*** *- He contended that same were proceeds of cash sales - Assessing Officer observed that assessee failed to explain source of such huge cash deposit -* ***He thereby invoked provision of section 145(3) and rejected book results - Further, he did not consider sales to tune of Rs. 37.96 lakhs out of cash deposited by assessee between 01.10.2016 to 13.11.2016 and made addition under section 68*** *on account of same It was noted that in support of sales so made, assessee submitted all invoices with complete year cash book, names, addresses and telephone numbers of persons to whom cash sales were made - On this information Assessing Officer had not made any independent inquiry He considered part of sales as genuine and on same set of records, part of sales were not considered as genuine - This pick & chose approach was not correct on same set of evidence - Assessee had maintained all records that sales were duly reflected in VAT return and also in books of accounts of assessee -* ***Further, Assessing Officer had not given required notice before rejection of book results, as required under law - Also profit derived from those sales proceeds was already taxed as part of sales - Whether, on***

		facts, Assessing Officer was not justified in rejecting books of account by invoking provisions of section 145(3) and further impugned addition made by Assessing Officer was also liable to be deleted - Held, yes [Paras 13 and 14] [In favour of assessee]
2.	***Acit, Chennai vs Shri S. Moorthy, Chennai*** ***ITA No.: 3091/CHNY/2019*** ***Assessment Year: 2012-13***	*. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below* ***. It is an admitted fact that the AO has rejected books of account u/s.145(3) of the Act*** *and estimated profit from the business by adopting 12.5% net profit on grossreceipts.* ***It is also an admitted fact that once books of account are rejected u/s.145(3) of the Act, no further additions can be made by relying upon same books of account either in respect of cash credits u/s.68 of the Act or unexplained commission expenses u/s.69C of the Act****, because in order to invoke provisions of section 68 of the Act, it is essential that credit should be from the books of account of the assessee maintained for that year. Once, the books of account maintained by the assessee is treated as no longer in existence by rejecting those books u/s.145(3) of the Act, then for all purposes including for the purpose of section 68 of the Act, said books of account ceased to exist and hence, those books cannot be relied upon to make addition towards unexplained credit u/s.68 of the Act. This legal position is supported by the decision of Hon'ble High Court of Rajasthan in the case of CIT vs. G.K. Contractor, supra, where it was clearly held that "AO having estimated the profit by applying a higher net profit rate to total contract receipts after rejecting assessee's books of account by invoking the provisions of section 14(3), no separate addition can be made on account of cash credit u/s.68, even though the assessee has failed to discharge its onus of proof in explaining the amount shown in the books of account". The Hon'ble High*

		Court of Punjab and Haryana, in the case of CIT vs. Aggarwal Engg. Co., (2008) 302 ITR 0246 had considered an identical issue and held that "no separate addition on account of cash credit and on account of unexplained payments for purchases made outside the books can be made once the net profit rate is applied on contract receipts of an assessee for estimating his income from contract work". The Hon'ble High Court of Allahabad in the case of CIT vs. BanwarilalBanshidhar, (1998) 229 ITR 0229 had taken a similar view and held that "where income is assessed at G.P. rate by rejecting the books of assessee u/s.145(3), no disallowance can be made separately u/s.40A(3) of the Act". Therefore, from the above, it is very clear that to make additions u/s.68 or 69 of the Act, the essential condition is books of account should be maintained by the assessee for the relevant financial year. If books of account of the assessee are rejected and income is estimated by applying certain profit rate, it would take care of all expenses necessarily to be incurred for earning profit and hence, when profit is estimated no separate addition can be made towards unexplained commission u/s.69 of the Act. The ld.CIT(A) after considering relevant facts has rightly held that the AO is erred in making addition towards cash credit u/s.68 of the Act and unexplained commission u/s.69C of the Act, when the books of account were rejected u/s.145(3) of the Act
3.	***DharmeddraDoshi,Sanwer Road, Indore vs Income Tax Officer-1(1), Indore ITA No. 352/Ind/2024 Assessment Year : 2017-18***	*"10. An Assessing Officer may, while considering a return of income, inspect the account books and, if satisfied, that account books do not reflect the true income of an assessee, reject the same. Account books once rejected, are ruled out of consideration and cannot be pressed into service whether by the assessee or the revenue. Thus, when account books are rejected, it would follow, as a necessary corrolary, that entries in the account books whether suspicious or not*

		cannot be relied by the revenue or the assessee. To hold otherwise, would, in essence, render account books valid for certain purposes and invalid for others, a course impermissible in law. The Assessing Officer rejected the account books in their entirety and thereafter proceeded to assess income by applying a flat rate of profit of 10%. After applying a flat rate of profit of 10%, the Assessing Officer added Rs.1,98,298/- to the income of the assessee on the basis of certain 'entries' deemed to be suspicious. The Commissioner of Income Tax (Appeals) as well as the Tribunal DharmendraDoshi, Indore. have rightly held that as books of accounts were rejected in their entirety, the Assessing Officer could not rely upon any entry in the books of accounts for making an addition of Rs.1,98,298/-. A bare reading of Section 68 of the Act would reveal that it would not apply to a situation where account books have not been rejected. *10. Therefore, in view of above discussion, we are of the considered view that the addition made by AO in present case is neither tenable on merit nor on legal provisions of section 68. Therefore, the AO is directed to delete the addition. The assessee succeeds in this appeal. 11. Resultantly, this appeal is allowed.*
4.	***Income Tax Officer-22(3)(6), Mumbai vs SambhavShelter , Mumbai I.T.A. No.811/Mum/2023 Assessment Year: 2018-19***	*Books of Account cannot be rejected for mere Inadvertent Error in TAR*
5.	***HIGH COURT OF RAJASTHAN Commissioner of Income Tax v. Ceramic Industries D.B. IT APPEAL NOS. 117 OF 2008 AND OTHERS***	*Section 145 of the Income-tax Act, 1961 - Method of accounting - Rejection of accounts When inconsistency in input/output ratio in various months and higher wastage in comparison to sister concern, had been duly explained by assessee, they could not be basis for rejection of books of account [In favour of assessee]* *The Assessing Officer rejected the*

		assessee's books of account on account of inconsistency in input/output ratio, higher wastage in comparison of assessee's sister concern 'B'. He rejected assessee's explanation that input/output ratio would depend on number of factors depending on the quality of the goods produced, quality of furnaces and machines used, temperature required, tolerable fluctuations and the quality of raw material used; and that input/output ratio in case of its sister concern was higher as said concern was manufacturing stoneware crockery while assessee was manufacturing bone china crockery in which wastage was more than stoneware crockery. *Held that inconsistency in the input/output ratio in various months and higher wastage in comparison to sister concern, the reasons for which had been duly explained by the assessee, could not be the basis for rejection of books of account. The yield and gross profit rate declared by the assessee could also not be the basis for rejection of books of account since 'B' was manufacturing maximum of stoneware crockery. The Assessing Officer had not pointed out any specific defects in the purchase, sales, opening stock and closing stock of the assessee and had not brought on record any cogent material to prove that the assessee had sold the under production out of the books of account. Therefore, the Assessing Officer was not justified in rejecting the books of account by invoking the provisions of section 145(3).*
6.	***HIGH COURT OF DELHI Principal Commissioner of Income-tax v. Agson Global (P.) Ltd IT APPEAL NOS. 68 TO 73 OF 2021 CM NOS. 9319, 9322, 9346, 9352, 9355 & 9356 OF 2021***	*INCOME TAX : Where AO made addition under section 68 on account of cash deposit made by assessee post-demonetization, since assessee placed material on record to prove that cash deposits made with banks were in correspondence with cash sales and growth in sales compared to earlier two years showed similar trend, it could only be concluded that there was growth in*

		assessee's business and impugned addition was to be deleted *Section 68 of the Income-tax Act, 1961 - Cash credit (Bank deposits) - Assessment year 2017-18 - Assessee-company was engaged in business of selling dry fruits - Post demonetization, assessee deposited cash amounting to Rs. 180.53 crore in its bank accounts - Assessing Officer held that cash deposits made by assessee represented unaccounted income and accordingly, made additions - Tribunal analysed data pertaining to cash sales and cash deposits made in relevant assessment year as against two earlier assessment years and noted that in year of demonetization percentage increase in sales was less than earlier year - He, thus, held that growth in sales compared to earlier two years showed similar trend, and it could not be said that assessee had booked non-existing sales in its books post-demonetization - Furthermore, revenue made no allegation that assessee had backdated its entries - Whether since assessee placed material on record that cash deposits made with banks more or less corresponded with cash sales, it could only be concluded that there was growth in assessee's business and impugned addition was to be deleted - Held, yes [Paras 16.9 and 17.6] [In favour of assessee]*
7.	***HIGH COURT OF MADRAS R.C. Auto Centre (S.I.) v. Income Tax Officer, Ward II(1), Coimbatore*** ***TAX CASE (APPEAL) NO. 190 OF 2014***	*IT : Books of account cannot be rejected and best judgment assessment cannot be done in a case where accounts have been audited under section 44AB* *Section 144, read with sections 44AB and 68, of the Income-tax Act, 1961 - Best judgment assessment (Scope of) - Assessment year 2009-10 - During assessment proceedings, assessee could not produce confirmation letter from large number of creditors in respect of amount borrowed - Assessee claimed that it had not maintained books of account and, therefore, amount in question could be*

		taxed as its business income by resorting to best judgment assessment - AO having rejected assessee's claim, made addition under section 68 - Tribunal finding that accounts were audited by qualified Chartered Accountant as required under section 44AB, held that assessee could not insist on best judgment assessment - Whether on facts, Tribunal was right in holding that books could not be rejected and best judgment assessment could not be done in a case where accounts had been audited under section 44AB - Held, yes *I. Section 68, read with section 153A, of the Income-tax Act, 1961 - Cash credit (Unexplained cash deposits) - Assessment year 2017-18 - Certain cash was deposited during post demonetisation in account of assessee, engaged in resale of jewellery, diamond etc. Assessing Officer observed that there were two sets of books of account, i.e., one in computer of accountant and another in pen drive of accountant with different sales figures for October 2016 and assessee having failed to furnish documentary evidence regarding source of cash deposits in its bank accounts, addition was made to income of assessee However, it was found that assessee was maintaining complete stock tally, sales were recorded in regular books of account and amounts were deposited in bank account out of sale proceeds - Nothing was brought on record to substantiate that cash obtained by assessee from sales which reduced stock of assessee was utilized elsewhere - Cash sales made during month of October, 2016 were in line of cash sales in earlier years and equal to sales in month of July, 2016 - Opening stock, purchases and sales and closing stock, declared by assessee were not doubted - Cash deposited post-demonetization by assessee was out of cash sales which had been accepted by Sales Tax/VAT Department and not doubted by Assessing Officer - There was sufficient stock available with assessee to*

		make cash sales - Whether therefore, sales made by assessee out of existing stock were sufficient to explain deposit of cash (obtained from realization of sales) in bank account and could not have been treated as undisclosed income of assessee and accordingly, impugned addition made by Assessing Officer was not justified - Held, yes [Paras 10.5, 10.7, 10.9, 10.11 and 10.13] [In favour of assessee]
8.	***IN THE ITAT HYDERABAD BENCH 'A' Meena Jewellers Extension (P.) Ltd. v. ACIT IT APPEAL NOS. 328 TO 330 & 385 (HYD.) OF 2024 [ASSESSMENT YEARS 2017-18 & 2018-19]***	*INCOME TAX : Before going for best judgment assessment under section 144, Assessing Officer needs to reject books of account of assessee with valid reason and unless Assessing Officer rejects books of account with valid reasons, he cannot resort to estimation of profit even in case of best judgment assessment* *I. Section 144, read with section 145, of the Income-tax Act, 1961 - Best Judgment assessment (Estimation of) - Assessment year 2017-18 - Whether before going for best judgment assessment under section 144, Assessing Officer needs to reject books of account of assessee with valid reason - Held, yes - Whether unless Assessing Officer rejects books of account with valid reasons, he cannot resort to estimation of profit even in case of best judgment assessment - Held, yes - Whether in best judgment assessment, there is certain degree of guess work, but said guess work cannot be arbitrary and without any basis - Held, yes - Whether where in spite of issuing of repeated notices under section 143(2) and 142(1) on various occasions, there was no compliance from assessee and assessee neither appeared nor filed any details to explain its case, Assessing Officer was justified in resorting to best judgment assessment but since Assessing Officer had not given any reasons for rejection of books of account and also estimated net profit on turnover without any basis, matter was to be set aside to file of lower authorities for reconsideration of issue - Held, yes [Para 10] [Matter remanded]*

		INCOME TAX : Where Assessing Officer made additions towards non-current liabilities as unexplained cash credits, since assessment order was ex-parte and there was no occasion for assessee to file relevant evidences, matter was to be remanded back for reconsideration *Section 68 of the Income-tax Act, 1961 - Cash Credit (Loans and advances) - Assessment year 2017-18 - Assessee-company was into business of trading in jewellery - Assessing Officer made ex-parte assessment order and made additions towards non-current liabilities as unexplained cash credits - Assessee claimed that said liabilities were sundry creditors, arising in normal course of business and that it had received loans and advances from related parties and obtained all information including confirmation letters from parties and requested to give another opportunity to explain its case - Whether since assessment order passed by Assessing Officer was ex-parte and there was no occasion for assessee to file relevant evidences, matter was to be set aside to file of lower authorities for reconsideration- Held, yes [Para 11] [Matter remanded]* *INCOME TAX : Where Assessing Officer made additions towards cash deposits during demonetization period as unexplained money under section 69A, since Assessing Officer had not recorded any findings as to how money was in nature of unexplained money and made additions only on basis of bank statements, this issue needed to be remanded back to file of lower authorities* *Section 69A of the Income-tax Act, 1961 - Unexplained moneys (Demonetization period) Assessment year 2017-18 - Whether in order to make additions under section 69A, Assessing Officer has to give a clear finding that assessee is owner of money and can not explain source of said*

		money to satisfaction of Assessing Officer - Held, yes - Assessing Officer made additions towards cash deposits during demonetization period as unexplained money under section 69A - Assessee claimed that cash deposited during demonetization period was out of sales recorded in books of account of assessee during relevant period Whether since Assessing Officer had not recorded any findings as to how money was in nature of unexplained money and made additions only on basis of bank statements, this issue needed to be remanded back to file of lower authorities for reexamination of facts Held, yes [Para 12] [Matter remanded]
9.	***IN THE ITAT JAIPUR BENCH 'A' Income-tax Officer v. Raj Kumar Nowa IT APPEAL NO. 165 (JP.) OF 2022 [ASSESSMENT YEAR 2017-18]***	*INCOME TAX : Where assessee engaged in jewellery business accumulated cash from sales, which was deposited in bank in demonetized currency, since assessee explained that said practice was in line with trend of cash deposits in past years which was accepted by department in assessments framed in past and future and no material was brought on record by revenue authorities to draw any adverse inference, addition made under section 68 in respect of unaccounted sale was to be deleted* *Section 68 of the Income-tax Act, 1961 - Cash credits (Cash deposit) - Assessment year 2017-18 - Assessee was deriving income from business of jewellery in his proprietorship concern and interest income from saving bank account, FDR and parties - Assessing Officer noticed that assessee had deposited cash of certain sum in its bank account during demonetization period viz. between 9-11-2016 to 30-12-2016 out of which cash of certain sum was in demonetized currency notes (SBN i.e. Old Rs. 500 and Rs. 1000 notes) - Assessee explained it to be out of cash sales made by him - Assessing Officer tried to analyze cash sale vis-à-vis cash sales in earlier years and had also observed that cash sale so shown during*

		demonetization was exceptionally high vis-à-vis cash sale in financial year 2015-16 however, he also observed that total sales for entire year had decreased substantially in current financial year when compared with previous year - He further held that assessee had not provided name, address and PAN of customers to whom cash sales was made Accordingly, Assessing Officer observed that these cash sales were not real sales and assessee had tried to introduce his own unaccounted money in garb of cash sales and therefore, made addition under section 68 - It was noted from records that increase of cash sale in month of Oct. and Nov. 2016 was due to KarvaChouth, Dhanteras and Diwali sales (Festival Season) - Further assessee had explained that, firm had been started in year 2015 itself and during financial year 2015-16 mother of assessee had expired and hence assessee was not able to setup his business at Kanpur and hence sale was low in financial year 2015 16 as compared to sales in 2016-17 - Whether looking to above facts and circumstances of case, it could be said that sale made by assessee was genuine and not bogus which was executed after giving goods to customer, duly reflected in books of account supported by payment of VAT - Held,yes - Whether further, since sales were below prescribed limit so it was not compulsory or mandatory under Income-tax Act to collect information related to full name, address and PAN of customer especially when, in preceding financial years, subsequent financial years and other periods of this same financial year, same practice was being followed by assessee- Held, yes - Whether therefore, sales could not be doubted on surmises and conjectures merely due to non-furnishing of address and PAN of customer Held,yes - Whether therefore, addition made under section 68 in respect of unaccounted sale was to be deleted - Held, yes [Para 5] [In favour of assessee]
10.	***IN THE ITAT JAIPUR***	*INCOME TAX : Where assessee-jeweller*

	BENCH 'A' ACIT v. Chandra Surana IT APPEAL NO. 166 (JP.) OF 2022 [ASSESSMENT YEAR 2017-18]	*claimed that cash deposited in bank account during demonetization period pertained to cash sale transaction of gold jewellery, since assessee had maintained regular books of account, bills, vouchers and day-to day stock register having complete quantitative details of cash sale transaction of jewellery, addition under section 68 could not be made* *2017-18 - Assessee was engaged in business of sale of gold jewellery and ornaments Assessing Officer completed assessment of assessee by making certain addition by holding that certain amount of cash deposited by assessee in his bank account during demonetization period was nothing but undisclosed income of assessee which was under garb of cash sales - He therefore, held that cash deposited was liable to be added under section 68 and taxable @60% under provision of section 115BBE - On appeal, Commissioner (Appeals) deleted addition - It was found from records that assessee had maintained regular books of account, bills, vouchers and day-to-day stock register having complete quantitative details of cash sale transactions of jewellery and cash sales and receipts were duly supported by relevant bills which were produced in course of assessment proceedings and sales were made out of stock-in-trade - Whether thus, all such scenario indicated that assessee had duly substantiated its claim from documentary evidences and also with facts Held, yes - Whether further, provisions of section 68 would not be applicable on sale transactions recorded in books of account as sales were already part of income which was already credited in P&L account - Held, yes - Whether therefore, there was no occasion to consider same as income of assessee by invoking provisions of section 68 and addition was rightly deleted by Commissioner (Appeals) - Held, yes [Para 2.6] [In favour of assessee]*
11.	***IN THE ITAT CHENNAI***	*INCOME TAX : Where assessee during*

	BENCH 'C' Income-tax Officer v. Sahana Jewellery Exports (P.) Ltd. IT APPEAL NO. 999 (CHNY.) OF 2022 [ASSESSMENT YEAR 2017-18]	*demonetization deposited substantial amount of cash in banks and claimed that source for cash deposits was out of advance received from customers which were subsequently converted into sales of jewellery, since said trade advances were subsequently converted into sales by issuing sale bills, said trade advance could not be examined in light of provisions of section 68* *Section 68, read with section 115BBE, of the Income-tax Act, 1961 and rule 114B of the Income-tax Rules, 1962 - Cash credit (Demonetization deposits) - Assessment year 2017-18 Assessee was engaged in business of trading in gold and jewellery - During demonetization, assessee had deposited substantial amount of cash in his bank accounts - Assessee claimed that source for cash deposits was out of advance received from customers for gold scheme - Assessing Officer treated cash receipts as unexplained cash credit under section 68 on ground that assessee had failed to prove genuineness of credits found in his bank account - It was noted that assessee had filed necessary books of account, including cash book, sales register, sale bills, purchase details along with bills and stock details to prove that there was no discrepancy in books of account - Further, assessee had reported sales made before date of demonetization to GST authorities - Whether since assessee received trade advances in cash and same had been subsequently converted into sales by issuing sale bills, then, said trade advance could not be examined in light of provisions of section 68- Held, yes - Whether furthermore assessee had furnished name and address of customers from whom it had received cash for sale of jewellery and law did not mandate assessee to collect PAN details of persons, if sale value of jewellery did not exceed Rs. 2 lakhs, assessee had satisfactorily discharged onus cast upon to furnish name and address of persons and thus,*

		additions under section 68 was unwarranted - Held, yes [Paras 13, 14 and 15] [In favour of assessee]
12.	***IN THE ITAT AMRITSAR BENCH Balwinder Kumar v. Income-tax Officer IT APPEAL NO. 256 (ASR.) OF 2022 [ASSESSMENT YEAR 2017-18]***	*INCOME TAX : Where assessee deposited cash sales made during demonetization period in his bank account and admitted such sales as revenue receipts, since books of account of assessee clearly reflected sufficient stock to affect such sales and same were accepted by revenue authorities, there was no basis for making additions under section 69A treating said deposits to be bogus* *Section 69A, read with section 115BBE, of the Income-tax Act, 1961 - Unexplained moneys (Cash sales) - Assessment year 2017-18 - During scrutiny proceedings, assessee explained before Assessing Officer that cash deposits made in its bank account pertained to cash sales made during demonetization period - Assessing Officer being not satisfied with said explanation treated deposits as bogus deposits - Commissioner (Appeals) upheld additions made by Assessing Officer without appreciating facts - It was noted that revenue authorities had accepted opening stock, closing stock, purchases, direct expenses, sundry debtors, sundry creditors, all VAT 15 returns and annual VAT 20 of assessee, without pointing any defect - Further, gross profit (GP) ratio of assessee was also accepted however same was suo-motu reduced out of disputed deposits - Whether Assessing Officer could not blow hot and cold at same time by partly rejecting books of account and partly accepting same, which was bad-in-law - Held, yes - Whether, further, since trading account of assessee had sufficient stock to affect sales in question and he had already admitted sales as revenue receipts, there was no case for making addition under section 69A against alleged cash deposits in bank - Held, yes [Para 12] [In favour of assessee]*
13.	***IN THE ITAT AHMEDABAD BENCH 'C' Income-tax***	*INCOME TAX : Where assessee had deposited cash amounting to Rs. 1.11*

	Officer v. Bela KiritkumarNahta IT APPEAL NO. 882 (AHD.) OF 2024 [ASSESSMENT YEAR 2017-18]	*crores during demonetization period in her bank accounts since opening balance of Rs. 1.20 crores on 9-11-2016 was more than sufficient to cover cash deposits, addition made under section 68 was to be deleted* *I. Section 68, of the Income-tax Act, 1961 - Cash credit (Deposits during demonetization period) - Assessment year 2017-18 - Assessing Officer based on statement of financial transactions data noted that assessee had deposited cash amounting to Rs. 1.96 crores during demonetization period in her bank accounts and treated entire amount as unexplained cash credit under section 68 on ground that assessee had failed to provide satisfactory evidence for these deposits - Commissioner (Appeals) having found that actual deposits during relevant period amounted to Rs. 1.11 crores as supported by bank statements and opening balance of Rs. 1.20 crores on 9-11-2016 was more than sufficient to cover cash deposits made during demonetization period deleted addition made under section 68 - Whether since findings of Commissioner (Appeals) were based on a detailed examination of documents submitted by assessee and cash deposits were fully explained as part of assessee's regular business turnover, Commissioner (Appeals) was justified in deleting addition - Held, yes [Paras 7.6 and 7.7] [In favour of assessee]*
14.	***IN THE ITAT CHANDIGARH BENCH 'A' Smt. Charu Aggarwal v. Deputy Commissioner of Income-tax IT APPEAL NOS. 310 & 311 (CHD.) OF 2021 [ASSESSMENT YEAR 2017-18]***	*INCOME TAX : Where cash deposited post-demonetization by assessee was out of cash sales which had been accepted by Sales Tax/VAT Department and not doubted by Assessing Officer and there was sufficient stock available with assessee to make cash sales, sales made by assessee out of existing stock were sufficient to explain deposit of cash (obtained from realization of sales) in bank account and, thus, cash deposits could not have been treated as undisclosed income of assessee*

15.	***IN THE ITAT AMRITSAR BENCH R. M. Sales Corporation v. Income-tax Officer IT APPEAL NO. 288 (ASR.) OF 2023 [ASSESSMENT YEAR 2017-18]***	*INCOME TAX : Where it was not case of Assessing Officer that assessee had shown bogus purchases to show bogus sales to cover up cash deposited during demonetization period, addition made by invoking section 69A was illegal* *Section 69A, of the Income-tax Act, 1961 - Unexplained moneys (Demonetization) Assessment year 2017-18 - Assessee-firm in respect of cash deposited in bank account during demonetization period explained that said cash had been deposited out of cash available with it on account of cash sales and recovery from debtors - Assessing Officer observed that assessee had included unaccounted income in its gross sales and treated cash deposited in bank account as unexplained income of assessee and added same to assessee's income by invoking section 69A - Whether since sales made by assessee and shown in regular books of account had been accepted as such by VAT authorities and it was not case of Assessing Officer that assessee had shown bogus purchases to show bogus sales to cover up cash deposited during demonetization period, addition made by invoking provisions of section 69A was illegal and deserved to be deleted - Held, yes [Paras 10 and 11] [In favour of assessee]*
16.	***CIT vs Devi Prasad Vishwnath Prasad (1969) 72ITR194 (SC)***	*Honorable Apex court held that – "It is for the assessee to prove that even if the cash credit represents income, it is income from a source, which has already been taxed".* ***The assessee has already offered the sales for taxation hence the onus has been discharged by it and the same income cannot be taxed again."***
17.	***CIT vs Durga Prasad More (1969) 72ITR807 (SC)***	*Held that* ***"If the amount represented the income of the assessee of the previous year, it was liable to be included in the total income and an enquiry whether for the purpose of bringing the amount to tax it was from a business activity or from some***

		other source was not relevant".
18.	***Hon 'ble Rajasthan High Court Smt. Harshila Chordia vs ITO (2008) 298 ITR 349 (Raj.)***	*Wherein it was held that – "Addition u/s 68 could not be made in respect of* ***the amount which was found to be cash receipts from the customers against which delivery of goods was made to them"***
19.	***CIT v. Vishal Exports Overseas Limited (Gujarat High Court) Tax Appeal No. 2471 of 2009***	*in Para 5/7 it was held that 5. Revenue carried the matter in appeal before the Tribunal. The Tribunal did not address the question of correctness of the C.I.T. (Appeals)'s conclusion that amount of Rs.70 lakhs represented the genuine export sale of the assessee. The Tribunal however, upheld the deletion of Rs.70 lakhs under section 68 of the Act observing that when the assessee had already offered sales realisation and such income is accepted by the Assessing Officer to be the income of the assessee, addition of the same amount once again under section 68 of the Act would tantamount to double taxation of the same income.7. In view of the above situation, we do not find any reason to interfere with the Tribunal's order*
20.	***ITO vs. Surana Traders, (2005)93 TTJ 875: (2005)92 ITD 212 Hon'ble Mumbai ITAT***	*Held that – " So merely because for the reasons that the purchaser parties were not traceable, the assessee could not be penalized.* ***In the sales documents, the assessee has made available all necessary details, i.e. the total weight sold as well as the rate per kilogram. Undisputedly, the assessee has maintained complete books of accounts along with day to day and kilogram to kilogram stock register.*** *These were produced before the A 0 by the assessee. The assessee also submitted stock tally sheet along with the audited accounts. The audit report of the assessee also bears ample testimony in favour of the assessee.* ***The factum of the assessee having maintained stock register and quantitative details have been mentioned by the A 0 in the assessment order. No mistake were***

		pointed out by the AO in these records maintained by the assessee—-*Since the purchases have been held to be genuine, the corresponding sales cannot, by any stretch of imagination be termed as hawala transaction. It is the burden of the department to prove the correctness of such additions.* ***When, in such like cases, a quantitative tally is furnished, even if purchases are not available no addition is called for."***
21.	***Shree Sanand Textiles Industries Ltd. V. DCIT vide ITA No. 1166/AHD/2014***	*Held that the provisions of section 68 cannot be applied in relation to the sales receipt shown by the assessee in its books of accounts. It is because the* ***sales receipt has already been shown in the books of accounts as income at the time of sale only.*** *We are also aware of the fact that there is no iota of evidence having any adverse remark on the purchase shown by the assessee in the books of accounts.* ***Once the purchases have been accepted, then the corresponding sales cannot be disturbed without giving any conclusive evidence/finding.*** *In view of the above we are not convinced with the finding of the learned CIT(A) and accordingly we set aside the same with the direction to the AO to delete the addition made by him.*
22.	***New Pooja Jewellers Vs ITO ITA No. 1329/Kol/2018***	*Held that these* ***sales have been accepted as income by the AO during the year. He has not disturbed the sales of the assessee.When a receipt is accounted for as income, no separate addition of the same amount as income of the assessee under any other Section of the Act can be made as it would be a double addition.*** *In the result, we delete the addition made and allow its claim of the assessee.*
23.	• *Nilkantha Narayana Singh's case (supra);* • *Kanpur Steel Co. Ltd. v. CIT [1957] 32 ITR 56 (All), approved in LalchandBhagatAmbica Ram v. CIT [1959] 37*	*Once the assessee is able to explain the sources of deposits in the bank based on the cash book, which is not disputed and rejected by the Revenue,* ***no addition on the basis of the bank deposits can be made out***

	ITR 288 (SC); • *Asstt. CIT v. Dr. Anil Kumar Verma [IT Appeal No. 274 (Agra) of 2013, dated 4-9-2019];* • *Salem SreeRamavilas Chit Co. (P.) Ltd. v. Dy. CIT [2020] 114 taxmann.com 492 (Mad)] .*	
24.	*ITO v. Vishan Lal's ITA 634/LKW/2014 ;* *Subash Chand Sharma v. ITO –ITA No.327/Agra/2017, dtd.31.5.19*	*The* ***assessee has no other sources of income*** ***The gross receipts and the income earned there from, as admitted in the assessee's Income Tax return under the head "business", are accepted by the Revenue***
25.	***Regular Cash sale converted as unexplained cash credit***	***AGONS GLOBAL P LTD v/s ACIT (Appeal No 3741 to 3746/Del/2019*** *has held that mere addition made on this ground that there is deviation in ratio is not proper. When the assesse had regular cash sale and deposit of cash in bank accounts and if nothing incrementing is found contrary then addition u/s 68 of such* ***cash sale would tantamount to double taxation.*** ***DEWAS SOYA LTD, UJJAIN v/s Income Tax (Appeal No 336/Ind/2012*** *has held that " The claim of the appellant that such addition* ***resulted into double taxation of the same income in the same year is also acceptable because on one hand cost of the sales has been taxed*** *(after deducting gross profit from same price ultimately credited to profit & loss account) and on the other hand amounts received from above parties has also been added u/s. 68 of the Act.*

25. Therefore, after having gone through the facts of the case, we are of the view that where the assessee is carrying on business regularly, the natural inference is that all the receipts are related to the business and the cash deposits in the banks have emanated from the business activities based on which no addition is sustainable in law and even the assessee had proved beyond doubt that the cash deposited of Rs. 3,49,00000 is out of sale proceeds and hence there was no justification in invoking section 115BBE of the Act.

26. Although, AO stated that assessee had not mentioned making charges income. In this case the assessee states that the amount of making charges were already included in the rate of jewellery which were charged to customer.

27. Even, there is no bar in making cash sales and in case the assessee is not able to furnish the address of the buyers, the additions cannot be made under section 68 of the Act on this count. The aforesaid principle had already been upheld in the following decisions:

a. Bombay High Court - R.B. Jessaram Fatehchand (Sugar Deptt.) v. CIT [1970] 75☐ ITR 33

In the case of a cash transaction where delivery of goods is taken against cash payment, it is hardly necessary for the seller to bother about the name and address of the purchaser there was no necessity whatsoever for the assessee to have maintained the addresses of cash customers, the failure to maintain the same or to supply them as and when called for cannot be regarded as a circumstance giving rise to a suspicion with regard to the genuineness of the transactions. Kishore Jeram Bhai Khaniya Vs Income Tax Officer (ITAT Delhi) (ITA No.☐ 1220/Del/2011)

b. The Vishakapatnam ITAT in the matter of M/ S Hirapanna Jewellers I.T.A. No.253/Viz/2020 and CO No.02/Viz/2021, A.Y.2017-18 dated 12.05.2021 has held on identical facts and of the case has held as under:

" In the instant case, the facts clearly support that the assessee has made the sales and there were sufficient stocks to meet the

sales. Thus, the facts of the assessee's case are clearly distinguishable. The Ld.DR further relied on the decisions of Kale Khan Mohammad Hanif, 50 ITR1 (SC), wherein, the Hon'ble Supreme Court held that the AO is permitted to make addition of unexplained cash credits even though the income is estimated on sales. In the instant case, the AO had accepted the sales and no unexplained cash credits were found, thus, the case law relied upon by the Ld.DR is also distinguishable on the facts of the case. The Ld.DR relied on the decision of CIT Vs P.MohanaKala, 161 Taxmann 169, CIT vs Devi Prasad Vishwanath Prasad 72 ITR 194(SC) both the cases refer to the sums found credited in the books of account but not offered as income, whereas in the instant case the assessee admitted the same as sales and offered for taxation, hence, the case laws has no application in the assessee's case. The Ld.DR also relied on the decision in Naresh Kumar Tulshanvs. 5th ITO, ITAT Bombay (supra), the decision was related to the addition u/s 69A representing huge deposit of cash in bank for which the initial source was declared as past profits and subsequently explained as withdrawal from partnership firm without relevant matching entries in the banks, therefore, the coordinate bench of ITAT held that withdrawal of such huge amount in high denomination was not practicable. The Ld.DR also relied on the decision of J.M.J.Essential Oil Company Vs. ITO, 100 taxmann.com 181 in the cited case, the assessee effected large sales in one month of each year continuously for two years and the assessee is eligible for deduction u/s 80IC and the AO observed that the assessee was inflating the sales and claiming the huge deductions. No such cash inflow is involved due to demonetization. Whereas in the assessee's case there were no such deduction or the exempt income and the profits were also not abnormal. The assessee explained the reason for huge sales with evidence and thus the case law relied up on by the DR is distinguishable. The Ld.DR relied on various case laws and all the case laws more or less are related to the additions made u/s 68 as unexplained cash credit and in none of the cases the assessees have admitted the same as income. Therefore, we find that the case laws relied up on by the Ld.DR has no application in the instant case and the same are distinguishable.

In view of the foregoing discussion and taking into consideration of all the facts and the circumstances of the case, we have no

hesitation to hold that the cash receipts represent the sales which the assessee has rightly offered for taxation. We have gone through the trading account and find that there was sufficient stock to effect the sales and we do not find any defect in the stock as well as the sales. Since, the assessee has already admitted the sales as revenue receipt, there is no case for making the addition u/s 68 or tax the same u/s 115BBE again. This view is also supported by the decision of Hon'ble Delhi High Court in the case of Kailash Jewellery House (Supra) and the Hon'ble Gujarat High Court in the case of Vishal Exports Overseas Ltd. (supra),Hence, we do not see any reason to interfere with the order of the Ld. CIT(A) and the same is upheld.

The assessee filed cross objections supporting the order of the ld. CIT(A). Since, the appeal of the revenue is dismissed, the cross objection filed by the assessee becomes infructuous, hence, dismissed."

The Ld. Delhi Tribunal in the case of **AGONS GLOBAL P LTD v/s ACIT (Appeal No 3741 to 3746/Del/2019** has held that *mere addition made on this ground that there is deviation in ratio is not proper. When the assesse had regular cash sale and deposit of cash in bank accounts and if nothing incrementing is found contrary then addition u/s 68 of such cash sale would tantamount to double taxation.*

The whole purpose of the Departmental Authorities in singling out the cash deposited during the demonetization period as arising out of unexplained sources(as against the accepted position in the past and the subsequent periods) is to somehow trigger the provisions of section 115BBE read with section 68 of the Act to the income already offered for tax by the Assessee (as cash sales) at a higher rate of tax of 77.25% (i.e. flat rate of 60% plus surcharge @ 25% on such tax and cess as applicable) on gross basis (without any deduction/allowance). ***In fact the treatment of the cash deposits as unexplained cash credits u/s 68 by the A.O has resulted in double taxation of the same amount, once in the form of cash sales already offered to tax by the Assessee at the rate of tax applicable to companies and again by way unexplained cash credit on deposits arising from such sales u/s 68 at higher rates specified u/s 115BBE****.*

116. In view of the above, it is prayed that the addition made by the A.O (and partly sustained by the CIT (A)) u/s 68 on account of

cash deposited in banks during the demonetization period may kindly be deleted.

c. The Ld. Indore Bench in the case of **DEWAS SOYA LTD, UJJAIN v/s Income Tax (Appeal No 336/Ind/2012**has held that

" The claim of the appellant that such addition resulted into double taxation of the same income in the same year is also acceptable because on one hand cost of the sales has been taxed (after deducting gross profit from same price ultimately credited to profit and loss account) and on the other hand amounts received from above parties has also been added u/s. 68 of the Act. This view has been held by ***the Hon'ble Supreme Court in the case of CIT vs Devi Prasad Vishwnath Prasad (1969) 72ITR194 (SC)*** *that "It is for the assessee to prove that even if the cash credit represents income, it is income from a source, which has already been taxed". The assessee has already offered the sales for taxation hence the onus has been discharged by it and the same income cannot be taxed again.*

d. In the decision of **Hon'ble ITAT, Nagpur Bench in the case of MisHeera Steel Limited vs ITO (2005) 4 IT J 437** is also worth to be mentioned here that wherein it was held that *"Both the lower authorities failed to appreciate the case of the assessee that these were the trade advances and not cash credits and against such advance, the assessee has supplied the material in due time as per details available on record. In view of the above, there is no justification for the revenue authorities to treat these cash advances as unexplained cash credit u/s 68".*

e. Reliance can also be placed on the decision of **Hon'ble M.P. High Court in the case of Addl. CIT vs. Ghai Lime Stone Co. (1983) 144 ITR 140(MP)**. It is evident from these judicial rulings that trade advances or cash received against which goods is supplied subsequently is not a cash credit as contemplated by section 68.

f. Shree Sanad Textiles Industries Ltd. V. DCIT (Ahmedabad ITAT) ITA No. 1166/Ahd/2014 in paras 9.6/9.7 it was held that *"We also note that the provisions of section 68 cannot be applied in relation to the sales receipt shown by the assessee in its books of accounts. It is because the sales receipt has already been shown in the books of accounts as income at the time of sale only."*

We are also aware of the fact that there is no iota of evidence having any adverse remark on the purchase shown by the assessee in the books of accounts. Once the purchases have been accepted, then the corresponding sales cannot be disturbed without giving any conclusive evidence/finding. In view of the above we are not convinced with the finding of the learned CIT(A) and accordingly we set aside the same with the direction to the AO to delete the addition made by him."

g. **New Pooja Jewellers v. ITO (Kolkata ITAT) ITA No. 1329/Kol/2018** in Para 15 it held that

"Be it as it may, in the normal course, we would have restored the issue to the file of the AO for fresh verification of the claim of the assessee that it had received advances from customers on the occasion of RamnavamiNayakhata. In other words, we would have given the AO more time to conduct enquiries and investigation. In this case we find that these advances have subsequently been recorded as sales of the assessee firm and that these sales have been accepted as income by the AO during the year. He has not disturbed the sales of the assessee. When a receipt is accounted for as income, no separate addition of the same amount as income of the assessee under any other Section of the Act can be made as it would be a double addition. In the result, we delete the addition made and allow its claim of the assessee"

h. **CIT v. Smt. Harshil Chordia v. ITO (Rajasthan High Court) 2008 298 ITR 349 Raj**- Para 23 held that 23. *So far as question No. 2 is concerned, apparently when the Tribunal has found as a fact that the assessee was receiving money from the customers in hands against the payment on delivery of the vehicles on receipt from the dealer the question of such amount standing in the books of account of the assessee would not attract Section 68 because the cash deposits becomes self-explanatory and such amounts were received by the assessee from the customers against which the delivery of the vehicle was made to the customers. The question of sustaining the addition of Rs. 6,98,000 would not arise.*

i. In a recent decision the Ld Delhi Tribunal in the case of **Gordhan, Delhi v/s DCIT dated 19/10/2019** held that *"no addition can be made u/s 68 on the sole reason that there is a time gap of 5 months between the date of withdrawals from bank account and redeposit the same in the bank account , Unless the*

AO demonstrate that the amount in question has been used by the assesse for any other purpose. In my view addition is made on inferences and presumptions which is bad in law."

j. Like wise in the case of **ACIT vs Baldev Raj Charla 121 TTJ 366 (Delhi)** also held that *merely because there was a time gap between withdrawal of cash and cash deposits explanation of the assessee could not be rejected and addition on account of cash deposit could not be made particularly when there was no finding recorded by the assessing officer or the Commissioner that apart from depositing this cash into bank as explained by the assessee, there was any other purposes it is used by the assessee of these amounts*

k. **CIT vs. Goa Sponge and Power Ltd (13/02/2012) Tax Appeal No. 16 of 2012 (High Court-Bombay)***"Once the authorities have got all the details, including the name and addresses of the shareholders, their PAN/GIR number, so also the name of the Bank from which the alleged investors received money as share application, then, it cannot be termed as "bogus". The controversy is covered by the judgements rendered b y the Hon'ble Supreme Court in the case of Lovely Exports Pvt Ltd, vs. CIT, (2008) 216 CTR (SC) 195, as also by this Court in CIT vs. Creative World Tele films Ltd, (2011) 333 ITR 100 (Bom). In such circumstances, we are of the view that the Tribunal's finding that there is no justification in the addition made under Section 68 of the Income Tax Act,, 1961neither suffers from any perversity nor gives rise to any substantial question of law."*

l. **CIT vs. Creative World Tele films Ltd (2011) 333 ITR 100 (Born-High Court)***"The question sought to be raised in the appeal was alsoraised before the Tribunal and the Tribunal was pleased to aollow the judgment of the apex Court in the case of CIT vs.Lovely Exports (P) Ltd. (2008) 216 CTR (SC) 195. Wherein the apex Court observed that if the share application money is received by the assessee-company from alleged bogus shareholders, w hose names are given to the AO, then the Department can always proceed against them and if necessary reopen their individual assessments. In the case in hand, it is not disputed that the assessee had given the details of name and address of the shareholder, their PAN/GIR number and had also given the cheque number, name of the bank. It was expected on the part of the AO to make proper investigation and reach the*

shareholders. The AO did nothing except issuingsummons which were ultimately returned back with an endorsement "not traceable In our considered view, the AO ought to have found out their details through PAN cards, bank account details or from their bankers so as to reach the shareholders since all the relevant material details and particulars were given by the assessee to the AO. In the above circumstances, the view taken by the Tribunal cannot be faulted."

m. **CIT vs. Steller Investment Ltd (2001) 251 ITR 263 (SC) (civilappeal)***"That the increase in subscribed capital of the respondent company could not be a device of converting black money into white with the help of formation of an investment company, on the round that, even if it be assumed that the subscribers to the increased capital were not genuine, tinder no circumstances could the amount of share capital be regarded as un disclosed income, an appeal was taken by the Department to th e Supreme Court. The Supreme Court dismissed the appeal holding that the Tribunal had come to a conclusion on facts and no interference was called for."*

n. **CIT vs. Nav Bharat Duolex Ltd (2013) 35 Taxmann.com289 (All-HC)** *"We have considered the arguments of the counsel for the parties. CIT(A) found that five companies subscribing the equity shares amounting to Rs. 25,00.000/- were identified and they had submitted their bank statements, cash extracts and returns filing receipts. As such identity of the share applicant companies and purchase of share had been proved by the assessee. Supreme Court in the cases of CIT v. Steller Investments Ltd. [2001] 251 ITR 263 and Lovely Exports ca se has held that the identity of the shareholder alone is required to be proved, in case of the capital contributed by the shareholders. Accordingly CIT(A) and the Tribunal has not committed any illegality in allowing the appeal of the assessee. We do not find any illegality in the judgment of the CIT(A) and the Tribunal."*

o. **CIT vs. JayDee Securities & Finance Ltd (2013) 32Taxmann.com91 (All-High Court)** *"The Tribunal recorded findings that the assessee had produced the return of income filed by the relevant shareholders who had paid share application money. The assessee had also produced the confirmation of shareholders indicating the details of addresses, PAN and*

particulars of cheques through which the amount was paid towards the share application money. The Tribunal thereafter relied upon the judgment of the Supreme Court in CIT V. Lovely Exports (P.) Ltd wherein it was held that if the assessee produces the names, addresses, PAN details of the shareholders then the onus on the assessee to prove the source of share application money stands discharged. If the Assessing Authority was not satisfied with the creditworthiness of the shareholders, it was open to the Assessing Authority to verify the same in the hands of the shareholders concerned, The Tribunal has relied upon an order of the Supreme Court in case of CIT v. Divine Leasing &Finance Ltd. In view of the decision 'of the Supreme Court, we dismiss the appeals with observations that the department is free to proceed to reopen their individual assessments of the shareholders whose names and details were given to the Assessing Officer."

p. **ACIT vs. Venkateshwarlspat Pvt Ltd (2009) 319 ITR 393 (Chhatisgarh-High Court)***"If the share applications are received by the assesseeformalleged bogus shareholders, whose names are given to the Assessing Officer, then the Department is free to proceed to reopen their individual assessments in accordance with law, but it cannot be regarded as the undisclosed income of the assessee."*

q. **Mod Creations Pvt Ltd vs. ITO (2013) 354 ITR 282 (Del-High Court) "***Held, allowing the appeal, (i) that the assessee had discharged the initial onus placed on it. In the event the Revenue still had a doubt with regard to the genuineness of the transactions in issue or as regards the creditworthiness of the creditors, it would have had to discharge the onus which had shifted on to it. A bald assertion by the Assessing Officer that the credits were a circular route adopted by the assessee to plough back its own undisclosed income into its accounts, could be of no avail. The Revenue was required to prove this allegation. An allegation by itself which is based on assumption will not pass muster in law. The Revenue would be required to bridge the gap between the suspicions and proof in order to bring home this allegation. The Tribunal without adverting to the principle laid stress on the fact that despite opportunities, the assessee and/or the creditors had not proved the genuineness of the transaction. Based on this it construed the intentions of the assessee as being mala fide. The Tribunal ought to have analysed the material rather than be*

burdened by the fact that some of the creditors had chosen not to make a personal appearance before the Assessing Officer. If the Assessing Officer had any doubt about the material placed on record, which was largely bank statements of the creditors and their income-tax returns, it could gather the necessary information from The sources to which the information was attributable If it had any doubts with regard to their creditworthiness, the Revenue could always bring the sum in question to tax in the hands of the creditors or sub- creditors."

r. **CIT vs. Al Anam Agro Foods (P.) Ltd (2013) 38 Taxmann.com 375 (All- High Court)** Tribunal, however, held that *since identity of share holders stood proved on record, amount of share application money could not be added to income of assessee. According to Tribunal, in such a case amount could be taxed in hands of persons who had invested"*

s. **CIT vs. Dwarkadhish Investment (P) Ltd (2011) 330 ITR 298 (Del-High Court)***"Just because the creditors/share applicants could not be found at the address given, it would not give the Revenue the right to invoke s. 68— Revenue has all the power and wherewithal to trace any person—Moreover, it is settled law that the assessee need not to prove the 'source of source'— In the instant case, the Tribunal has confirmed the order of the CIT(A) deleting the impugned addition holding that the assessee has been able to prove the identity of the share applicants and the share application money has been received by way of account payee cheques."*

t. **CIT vs. Namastey Chemicals Pvt Ltd (2013) 33Taxmann.com271 (Guj-High Court)***"In the present case also, the respondent assessee has received share application money from different sub scribers. It was found that large number of subscribers had responded to the letters issued by the Assessing Officer or summons issued by him and submitted their affidavits. In some cases such replies were not received through posts. Rs. 9 lacs represented those assessees who denied having made any investment altogether. The issue thus would fall squarely within the ambit of the judgment of the Supreme court in the case nf Lovely Exports(supra). No error of law can be stated to have been committed by the Tribunal. Tax Appeal is therefore dismissed."*

u. **CIT vs. Peoples General Hospital Ltd (2013) 356 ITR 65 (MP High Court)***"Held , dismissing the appeals , that it the*

assessee had received subscriptions to the public or rights issue through banking channels and furnished complete details of the shareholders, no addition could be made tinder section 68 of the Income-tax Act, 1961, in the absence of any positive material or evidence to indicate that the shareholders were benamidarsor fictitious persons or that any part of the share capital represented the company's own income from undisclosed sources. It was nobody's case that the non-resident Indian company was a bogus or non-existent company or that the amount subscribed by the company by way of share subscription was in fact the money of the assessee. The assessee had established the identity of the investor who had provided the share subscription an d that the transaction was genuine. Though the assessee's contention was that the Creditworthiness of the creditor was also established, in this case, the establishment of the identity of the investor alone was tobe seen. Thus, the addition was rightly deleted."

v. **CIT vs. Shree Rama Multi Tech Ltd (2013) 34 Taxmann.com177(Guj-HC)***"It is noted that Commissioner (Appeals) as well as the Tribunal have duly considered issue and having found complete details of the receipts of share application money, along with the form names and addresses, PAN and other requisite details, they found complete absence of the grounds noted for invoking the provision of section 68. Moreover, both rightly had applied the decision of CIT vs. Lovely Exports (P) Ltd to the case of the assessee. Therefore, no reason was found in absence of any illegality much less any perversity too to interfere with the order of the both these authorities, who had concurrently held the due details having been proved. The assessee company had presented the necessary worth proof bef ore both the authorities and it was not expected by the assessee company to further prove the source of the deceased."*

w. **CIT vs. NikunjEximp Enterprises (P.) Ltd (2013) 35Taxmann.com384 (Bom)***"Whether merely because suppliers had not appeared before Assessing Officer or Commissioner (Appeals), it could not be concluded that purchases were not made by assessee - Held, Yes. Further, there were confirmation letters filed by thesuppliers, copies of invoices for purchases as well as copies of bank statement all of which would indicate that the purchases were in fact made. In our view, merely because the suppliers have not appeared before the Assessing Officer or the*

CIT(A), one cannot conclude that the purchases were not made by the respondent- assessee"

x. **CIT vs. Samir Bio- Tech Pvt Ltd (2010) 325 ITR 294 (Del High Court)***"Identities of the subscribers are not in doubt. The transactions have also been undertaken through banking channels inasmuch as the application money for the shares was given through account payee cheques. The creditworthiness has also been established, as indicated by the Tribunal. The subscribers have given their complete details with regard to their tax returns and assessments. In these circumstances, the Department could not draw an adverse inference against the assessee only because the sub scribers did not initially respond to the summons. The subscribers, however, subsequently gave their confirmation letters as would be apparent from the impugned order. The identity of the subscribers stands established and it is also a fact that they have shown the said amounts in their audited balance sheets and have also filed returns before the IT authorities. The decision of the Tribunal deleting the addition cannot be faulted."*

28. Therefore, taking into consideration the entire facts and circumstances as discussed by us and also taken into consideration the decisions cited and discussed by us above, we are of the view that assessee has successfully proved that the cash deposited by him was out of cash sales which have already been reflected in books of accounts and taxes have already been paid therefore no additions are warranted u/s 68 of the Act. Therefore we direct the AO to delete the same.

29. In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 04/12/2025.

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

Mumbai:
Dated: 04/12/2025

KRK, Sr. PS.

Copy of the order forwarded to:
(1)The Appellant
(2) The Respondent
(3) The CIT
(4) The CIT (Appeals)
(5) The DR, I.T.A.T.

True Copy

By order

(Asstt.Registrar)
ITAT, Mumbai