

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “E” BENCH: NEW DELHI**

**BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.3262/Del/2024  
[Assessment Year : 2017-18]**

Manik Asri M-40, IInd Floor Kirti Nagar, New Delhi- 110015. <b>PAN-AFKPA9438B</b>	vs	ITO Warrd-49(1) Delhi
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee by</b>		Ms. Ragini Handa, Adv. & Shri Deepanshu Kaushik, Adv.
<b>Revenue by</b>		Shri Piyush Tripathi, Sr.DR
<b>Date of Hearing</b>		26.11.2025
<b>Date of Pronouncement</b>		23.01.2026

**ORDER**

**PER MANISH AGARWAL, AM :**

The present appeal is filed by the assessee against the order dated 20.05.2024 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld.CIT(A)”] in Appeal No. CIT(A), Delhi-17/10758/2019-20 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of the assessment order dated 31.12.2019 passed u/s 143(3) of the Act pertaining to Assessment Year 2017-18.

2. Brief facts of the case are that assessee e-filed his return of income, declaring total income of INR 6,90,980/-. The case was selected for complete scrutiny and notice u/s 143(2) was issued on 16.08.2018. As per the information available with the AO assessee

had deposited cash of INR 55,00,000/- in SBN during the demonetization period in his Current Account maintained with Kotak Mahindra Bank. Thereafter notices u/s 142(1) of the Act alongwith questionnaire were issued from time to time. In response assessee submitted detailed and after considering the same, AO passed the order u/s 143(3) of the Act dated 31.12.2019 at a total income of INR 74,72,980/-.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide impugned order dated 20.05.2024, partly allowed the appeal of the assessee.

4. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *"In view of the facts and circumstances of the case and in law, the National Faceless Appeal Centre, Delhi ("NFAC/Ld. CIT(A)") grossly erred in confirming the addition of Rs. 55,00,000 made under Section 68 of the Act ("Impugned Addition") by the Ld. ITO, Ward-49(1), Delhi ("the Assessing Officer/Ld. AO"), vide order passed under Section 143(3) of the Income Tax Act, 1961 ("the Act") as the addition made therein is bad in law, void ab-initio and is liable to be deleted.*
2. *In view of the facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the Impugned Addition under Section 68 of the Act without considering the fact that the Appellant duly provided the documentary evidence to the Ld. AO in respect to the nature and source of cash deposit which was corroborated by the fact that the source of cash deposited was the cash sales made by the Appellant against the stock-in-hand against which the Appellant duly provided the evidence to the Ld. AO by way of stock summary, purchase and sale ledger along with invoices accompanied by VAT and CST returns for the year under consideration, which was not considered by the Ld. CIT(A) and thus the Order passed by the Ld. CIT(A) is unsustainable both in law and on facts.*

3. *In view of the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the Impugned Addition by not appreciating the fact that the cash deposits by the Appellant were duly recorded in the books of account which have not been rejected by the Ld. AO but duly accepted by the Ld. AO, basis which the order of the Ld. CIT(A) is liable to be quashed.*
4. *In view of the facts and circumstances of the case and in law, the Ld. CIT(A) failed to appreciate that since the cash sales had been accounted for as a part of Sales consideration, the Impugned Addition had resulted in the double taxation of the income of the Appellant, which is in contravention to Article 265 of the Constitution of India, and for that reason also, the said addition is liable to be set aside.*
5. *In view of the facts and in the circumstances of the case and in law, the Ld. CIT(A) has passed a non-speaking order and erred in confirming the impugned Addition on the sole premise that high cash sales were recorded during the period of demonetization and the Ld. CIT(A) ignored a settled position of law that no addition can be made simply owing to the fact that prior or during the demonetization period, there has been huge cash sales, basis which the Order is liable to be set aside.*
6. *In view of the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring that when the comparative cost of goods sold and gross profit margins of the financial year preceding the subject financial year were similar to that of the subject financial year, no addition under Section 68 of the Act could be made for cash sales made by the Appellant.*
7. *In view of the facts and circumstance of the case and in law, Ld. CIT(A) has erred in upholding the taxation at special rates under Section 11588E of the Act especially when the said provision is punitive in nature and there is not an iota of evidence which elicits mala fide omission at the Appellant's behest, thereby the said addition ought to be deleted.*
8. *In view of the facts and circumstance of the case and in law, the taxation of the Assessed Income at special rates under Section 115BBE of the Act is illegal and bad in law since the said provision is punitive in nature and the sales of the Appellant have been accepted by the Ld. AO by not rejecting the Appellant's books of account.*
9. *In view of the facts and circumstances of the case and in law, the CIT(A) has failed to appreciate that the Impugned Addition has been made without considering the Appellant's contentions and the said*

*addition ought to be deleted for having been upheld in violation of the principles of natural justice.*

10. *That in view of the facts and circumstances of the case and in law, CIT(A) has erred in upholding the charging of interest under Section 234A, 2348 and 234C of the Act, the same in the view of the aforementioned grounds is ex facie erroneous.*
11. *The Appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing appeal.”*

5. Before us, Ld.AR for the assessee submits that assessee is proprietor of the firm engaged in the business of PU quoted fabric and stated that the immediate source of cash deposited during demonetization was out of cash sales made. It is further submitted by ld. AR before the AO all the details including monthly quantitative stock registers and cash book for the AY 2016-17 were filed before the lower authorities. Besides, details of purchases from top 10 parties alongwith VAT returns and details of sales made were filed before the AO. He submits that out of total sales of more than Rs.8.00 crores, sales to the tune of INR 71.68 Lakhs were made in cash and INR 55 Lakhs available as on the closing hours of 8.11.2026 were deposited in bank in SBN. Ld.AR submits that AO has not doubted the sales nor availability of the stock with the assessee was doubted however solely for the reason that cash was deposited in SBN, invoked the provision of section 68 of the Act and made the addition. Ld. CIT(A) though accepted the fact that assessee is able to demonstrate the source of cash out of the sales which have been accepted as such and no doubts were raised in trading results of the assessee however, due to reason that assessee has made substantial cash sales in the month of October, 2016, had confirmed the

addition. Ld. AR drew our attention to para 5.4 of the impugned order of Ld.CIT(A), wherein Ld.CIT(A) has himself observed that assessee has filed reply each and every query to the assessee and the AO has failed to bring any information on record to demonstrate that the cash sales included in total turnover in unexplained income. Ld.AR submits that once the assessee has declared cash sales out of the stock available and the said sales has been accepted no addition could be made unexplained credits u/s 68 of the Act. For this, reliance is placed on the following judgments:-

- (i) CIT vs Akshit Kumar [2021] 124 taxmann.com 123/277 Taxman 423 (Delhi);
- (ii) PCIT vs Agson Global (P.) Ltd. [2022] 441 ITR 550 (Delhi);
- (iii) CIT vs Kailash Jewellery House in ITA No.613 of 2010 dated 09.04.2012;
- (iv) Smt Charu Aggarwal vs DCIT [2022] 96 ITR (T) 66 (Chandigarh-Trib.);
- (v) ACIT vs Hirapanna Jewellers [2022] 96 ITR (T) 24 (Visakhapatnam-Trib.);
- (vi) Anantpur Kalpana vs ITO [2022] 138 taxmann.com 141 (Bangalore-Trib.);
- (vii) Fine Gujuranwala Jewellers vs ITO [2023] 151 taxmann.com 340 (Delhi-Trib.); and
- (viii) JMK Exports vs ACIT [2024] 161 taxmann.com 481 (Delhi-Trib.).

6. On the other hand, Ld. Sr. DR for the Revenue vehemently supported the orders of lower authorities and submits that before the AO, assessee has not been able to give any justification of excessive sales in the month of October, 2016. He further submits that entire cash sales shown was to cover up source of cash deposited during

demonetization period and therefore, the source of the said cash remained unexplained and Ld. Sr. DR thus, requests that AO has correctly made the addition u/s 68 of the Act which deserves to be upheld.

7. Heard the contentions of both parties and perused the material available on record. It is observed that assessee has filed following information before the lower authorities:-

- (i) cash book
- (ii) month wise and annual quantitative details of stock alongwith stock register
- (iii) monthly cash in hand summary
- (iv) details of sales made
- (v) details of 10 parties to whom sales were made alongwith their names and addresses
- (vi) copy of all cash sales invoices
- (vii) details of purchases
- (viii) copy of audited financial statements
- (ix) details of purchases made alongwith indigenous imports
- (x) copy of bank statements
- (xi) clearly returns of VAT
- (xii) re-conciliation statement of purchases, sales and stock movement during the month of September to November, 2016.

8. All these documents were placed before us in the Paper Book filed by the assessee. It is further observed that Ld. CIT(A) has accepted this fact that the assessee has filed all the details which are available on record and the assessee has been able to demonstrate the cash sales made and the AO has not pointed out any discrepancy in the details so filed. However, Ld.CIT(A) by observing that there was

an abnormal cash sale in the month of October, 2016, has confirmed the addition.

9. As observed above, once the AO has accepted the total sales including the cash sales and trading results declared by the assessee were not doubted which includes profits declared on cash sales alleged as unexplained which has been claimed as the source of the cash deposited during demonetization and no action has been taken u/s 145(3) of the Act. Thus, treating the said cash as unexplained, the cash credit is contrary to the provisions of law. Section 68 provides that assessee has to establish all the three ingredients enumerated in this section i.e. identity, creditworthiness and genuineness of the transaction. As is evident that assessee not only offered explanation regarding nature and source of such credits but also substantiated the same with documentary evidences in the shape of Audited Financial Statements, Sale Register, Purchase Register, Stock Register and Cash book. No specific defects whatsoever has been brought out on record by the Id. AO in those evidences and books of accounts so furnished. It is not understood as to how the addition could be made when cash sales was duly accepted. Therefore, addition so made u/s 68 of the Act without finding out any specific defects in books of account and also without rebutting the evidences produced is unjustified.

10. In the present case, as observed above, assessee has filed the copies of the sales invoices alongwith the sales registers and the cash was duly recorded in the books of accounts. The AO is required to consider the records of the assessee such as stock register, bank

statement, monthly sales summary, possibility of back-dating of cash sales or fictitious sales etc. before making any allegation about the genuineness of the cash deposited in SBN during the demonetization period. No such efforts were made by the AO and trading results declared were accepted. The AO had not doubted the availability of stock with the assessee prior to cash sales. By filing complete details assessee discharged the burden casted upon him and no contrary material whatsoever was brought on record by the AO to disprove the details so filed by the assessee. As observed above, assessee has already included the entire cash sales in the total sales and the profits have been derived which were offered for tax, thus taxing the same income again is taxation of an income twice, once the profits out of such sales and thereafter treating the deposits out of such cash sales as unexplained on conjectures and surmises.

11. The hon'ble Delhi High court in the case of **CIT v. Kailash Jewellery House** in **ITA No. 613/2010** (Delhi) has held as under:

*In the facts of above case cash of Rs.24,58,400/- was deposited in bank account. The Assessing Officer made the addition on the ground that nexus of such deposit was not establish with any source of income. The assessee claimed that it was duly recorded in the books on account of cash sales and was considered in the Profit and Loss Account. The Assessing Officer had verified the stock and cash position as per books and had accepted the same. Complete books of account and cash book was submitted to the Assessing Officer and no discrepancy was pointed out. On this basis CIT(A) deleted the addition. Tribunal also observed that it is not in dispute that sum of Rs.24,58,400/- was credited in the sale account and had been duly included in the profit disclosed by the assessee in its return. Therefore, cash sales could not be treated as undisclosed income and no addition could be made once again in respect of the same. The Hon'ble High Court dismissed the appeal filed by the Department.*

12. The coordinate bench of ITAT Delhi in the case of S. Balaji Mech-Tech Private Ltd Vs. ITO in ITA No. 556/Del/2024 vide order dt. 25.09.2024 has observed as under:

18. *Coming to the issue of stock movement and excess sales, we observed that the assessee has submitted relevant stock reconciliation and auditors report of stock movements and there is no negative stock movement which will indicate that the assessee has booked excess sales without there being proper purchases.*
19. *In our considered view, there are chances that during the demonetization period the regular customers may have choose to buy the spare parts and bearing by making payment by cash so that their excess SBN is transferred. We noticed that the credit sales has come down during this period and the sales of the assessee is more or less maintained during this period. Therefore, it shows that the changes in the patterns recorded in the sales are not abnormal.*
20. *Whether the recording of cash sales which is already declared in the books of account will attract the deeming provisions of sec.68 or 69A of Act. We observed that the assessee has declared all the cash transactions in its books of account and merely because the cash deposits are more during the demonetization period, whether the CIT(A) can invoke the provisions of section 69A of the Act. As per provisions of the section, it is necessary that the assessee be found with the money, the same is not recorded in the books accounts maintained by it for any source and not offers any explanation or such explanations are not found to be satisfactory to the AO. In this case, the assessee has already declared the cash sales in its books of account and offers the explanation as cash sales, which the lower authorities has accepted it as regular business transactions because they have not rejected the book results and brought to tax the total sales declared by the assessee in its books. Since the cash were already recorded and explanation is already part of the book results, there is no avenue for the CIT(A) to reject such explanations. This expression "explanation is found not satisfactory to the AO" is purely relates to the money found with the assessee which are not recorded in the books of account. In this case, the above expression has no relevance since the assessee had already declared the cash sales in its books. In the similar situation, the coordinate bench has held in the case of J.R.Rice India (P) Ltd as under:  
"At the cost of repetition, to the extent of sales made, the stock position is also correspondingly reduced by the assessee which goes to prove the genuineness of the claim of the assessee. On examination of the cash book of the assessee, it*

*is found that the assessee had cash balance of Rs. 55.94 lakhs as on 8-11-2016, i.e., the date on which demonetization was announced, which sufficiently explains the source of deposit of Rs. 52.60 lakhs in specified bank notes. Apart from this, the assessee had duly furnished the month wise details of sales, month wise details of purchase, corresponding freight charges incurred month wise, month wise power and fuel expenses and month wise selling expenses in the form of rebate and discount. The assessee also furnished the quantitative details of goods month wise for rice, sugar, chana dal and wheat flour before the Assessing Officer. All these facts clearly go to prove the genuineness claim made by the assessee that cash deposits of Rs.52.60 lakhs has been made out of cash balance available with the assessee and, hence, there is absolutely no case made out by the revenue for making addition under section 68."*

*Further, in the case of Fine Gujranwala Jewellers Vs. ITO (ITA No. 1540/Del/2022 dated 27.03.2023, wherein it was held as under:*

*22. In the case in hand the reason for disbelieving the cash deposit is that the assessee has been deposited below Rs. 2 lakh in every transactions that lead to the conclusion of the Assessing Officer that the same has been done to avoid the application of provision of section 285BA read with Rule 114E of the Act. The said observation made by the Assessing Officer without any material in his hand.*

*There is no prohibition under law to make sale transaction below Rs. 2 lakhs as such the assessee had at liberty to manage his own affairs. From the action of the assessee in raising the sales bill below Rs. 2 lakhs the Assessing Officer cannot interpret as the sale are bogus only to give colour to non-genuine transaction as genuine transaction. The evidence brought on record by the Assessing Officer are not enough to hold that sales were not genuine. More so, the other wing of the Govt has already accepted the sale transaction under VAT, hence, the Assessing Officer is precluded from making contrary findings on the issue when the sales are not doubted. The other contention of the ld. DR is that the assessee has not maintaining stock register properly and date wise stock position are not given. The Assessing Officer made the said observation without rejecting the books of account form which true profit and loss accounts could be ascertained and there is no quarrel on this issue. The lower authorities cannot place reliance on the circumstantial evidence which is only conjectures and surmises and the said approach of the ld CIT(A) is devoid of*

*merit it deserves to be rejected. Further, the income of the assessee has to be computed by the Assessing Officer on the basis of available material on record and it is very important to have a direct evidence to make an addition rather than circumstantial evidence. When the assessee gives any reply or submission or any documents to the Assessing Officer, it is duty of the Assessing Officer to examine the same in the light of the available evidence. In the present case the Assessing Officer and the Id CIT(A) have concluded the findings on the basis of conjectures and surmises. The Assessing Officer has to establish the link between the evidence collected by him and the addition to be made. The entire case has to be dependent on the Rule of evidence, the assessee in this case explained the source of bank deposits are from cash sales. The Assessing Officer proceeded to disbelieve the explanation of the assessee on the presumption basis without bringing the corroborative material on record. The Assessing Officer is required to act fairly as reasonable person and not arbitrarily capriciously. The assessment should have been made based on the adequate material and it should stand on its own leg. The Assessing Officer without examining any parties to whom the goods are sold by the assessee, came to conclusion that the sales are not genuine, without even rejecting the books of account which is in our opinion is erroneous.*

21. *Respectfully, following the above decisions, we are inclined to allow the grounds raised by the assessee with the observation that the AO/CIT(A) cannot invoke the provisions of section 68 or 69A when the assessee is already declared the source for cash deposits in the books of accounts and the lower authorities without their being any material to support on their contrary view, the provisions of section 68 or 69A cannot be invoked.*

22. *In the result, appeal filed by the assessee is allowed.*

14. In view of above facts and by respectfully following the ratio laid down in above cases and also looking to the facts that lower authorities have tried to support their findings on the basis of incorrect comparison of monthly cash sales in the year with the preceding year without appreciating the fact that the sales made were duly backed by availability of stocks. Therefore, in our considered

opinion addition of Rs. 55.00 lacs made towards cash deposited in the bank account during demonetization is not called for and accordingly the same is hereby deleted. All the grounds of appeal taken by the assessee are thus allowed.

15. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 23.01.2026.

**Sd/-**

**(YOGESH KUMAR U.S)  
JUDICIAL MEMBER**

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Date:- 23.01.2026**

*\*Amit Kumar, Sr.P.S\**

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