आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL**
**'C' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER AND**
**SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./**ITA No.264/Chny/2026**

निर्धारण वर्ष / Assessment Year : 2017-18

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| **Humnabad Mohammed Omer**<br>No.9, Kumarappa Street<br>Periamet, Chennai – 600 003. | vs. | **The Deputy Commissioner of Income-tax**<br>Non Corporate Circle 4(1)<br>Chennai. |
| **[PAN: ABTPH2940J]**<br>(अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| अपीलार्थी की ओर से/Appellant by | : | Shri. Y.Sridhar, F.C.A. |
| प्रत्यर्थी की ओर से/Respondent by | : | Shri. Pelli Prem Kumar, Sr.AR |

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|---|---|---|
| सुनवाई की तारीख/Date of Hearing | : | 30.06.2026 |
| घोषणा की तारीख/Date of Pronouncement: | | 22.07.2026 |

## आदेश /O R D E R

**PER S. R. RAGHUNATHA, AM :**

This appeal is filed by the Assessee against the Order passed by the learned Commissioner of Income-tax (Appeals), NFAC, Delhi, [hereinafter referred to as "the Ld. CIT(A)"], dated 07.11.2025, arising from the dismissal of the appeal of the assessee filed against the Order passed by the Assessment unit, NFAC, [hereinafter referred to as "the AO"], u/s.143(3) of the Income-tax

Act, 1961 (hereinafter referred to as “the Act”) dated 28.12.2019 for the Assessment Year 2017-18.

2. The sole grievance raised by the assessee in his appeal is whether the ld.CIT(A) is right in confirming the addition of cash deposit assessed by the AO as unexplained cash credit.

3. The brief facts of the case emanating from the records are that the assessee had filed the Return of Income for A.Y. 2017-18 on 04.08.2017 admitting a total income of Rs.25,56,450/-. The Return of income was selected for scrutiny to examine the source of cash deposited of Rs.76,45,000/- during FY 2016-17 in Central Bank of India A/c No.3176400495. According to the assessee, during FY 2014-15, the assessee was a partner in M/s.South India Prime Tannery, Hyderabad. By the Order of the City Civil Court, Hyderabad, the firm was dissolved and the assets held by the firm were distributed amongst the partners. One such property located at Bakaram, Hyderabad devolved on the assessee and it was sold during February 2014 for a consideration of Rs.1,04,49,000/-. The entire sale consideration was received in cash and the deeds of sale portray that the said consideration was received in cash only.

4. The entire sale consideration so received was also reflected in the closing cash balance as on 31.03.2014. According to the assessee, the same was carried forward to 31.03.2016 and thereafter cash of Rs.76,45,000/- was deposited into the bank account. Therefore, it was explained by the assessee before the assessing officer that the cash deposited during FY 2016-17 was sourced out of the proceeds of sale undertaken during FY 2013-14.

5. In order to provide a live link between the cash available as on 31.03.2014 to that of the cash deposited out of the cash balance as on 31.03.2016, the narrative was provided by the assessee that the sums were lent to underprivileged and poor persons connected to the Jamaat in Musheerabad at Hyderabad, without charging interest to provide for urgent necessities and thereafter received back from them to be deposited and

thereafter diverted to address the assessee's share of Income-tax liability of the erstwhile firm. The assessee had further stated that the amounts were given to numerous individuals which was below Rs. 20,000/- and did not carry interest since as per his religion and custom, receipt of interest is prohibited.

6. The AO found this explanation with regard to the deployment of cash during the interregnum, fanciful, as if it were truly undertaken, since there is a prohibition to transact in excess of Rs.20,000/-, the amount ought to have been lent to 522 poor persons. Undertaking a transaction with so many individuals, collecting them back and thereafter remitting into the bank account in one go, according to the assessing officer defeats the preponderance of human probabilities and is against the normal course of conduct. The AO therefore found that the explanation provided by the assessee to be untenable. Furthermore, the claim that the assessee does not accept interest was also found contradictory while the income earned and reported in the ROI for the past several years constituted interest income earned. Accordingly, the explanation with regard to the source of cash deposited of Rs.76,45,000/- into the bank account during FY 2016-17 was rejected and made addition as unexplained investment and brought to tax u/s.69 r.w.s 115BBE of the Act and passed an order u/s.143(3) of the Act dated 28.12.2019.

7. Aggrieved by the addition to total income, the assessee had preferred an appeal before the ld.CIT(A). Before the ld.CIT(A) it was expressed that there is a direct nexus between the sale proceeds of immovable property owned by the firm and received on dissolution of the partnership firm with that of the cash deposited and while the same has not been destabilized, the addition made is incongruous.

8. The copies of the registered deed of sale of immovable property owned by the firm substantiating the source of cash were produced before the AO but were not taken cognizance. It was during the course of appellate proceedings, the assessee stated that he had received a sale consideration of immovable property of Rs.1,04,49,000/-, which is supported by the relevant contents of the

istered deeds of sale. A disagreement arose between the partners with regard to the liability cast on sale of the asset whether in the hands of the firm or in the hands of the partners. Finally, the divergence got resolved and in order to settle the Income-tax liability that corresponds to the capital gains arising on sale of land, the cash was deposited.

9. The credit to the bank account through such cash deposit were immediately diverted to settle the firm's tax liability and therefore it was submitted before the ld.CIT(A) that there exists a unbridled connection between the sale proceeds and the cash deposited, although there was a time lag.

10. The ld.CIT(A) found that the explanation suffers from inherent improbabilities as the claim that an amount of approximately Rs.1.00 crore was given as hand loans to poor people defies logic. Therefore, when the claim of the assessee about these hand loans lent and receive back were hard to believe, the finding of the AO was upheld, addition u/s.69 of the Act was sustained, and the ground of the assessee was dismissed.

11. Dissatisfied by the order of the ld.CIT(A), the assessee had approached the Tribunal seeking deletion of the addition and had submitted that when the sources for cash deposited in the bank account of the assessee were satisfactorily explained as out of sale proceeds of immovable property the AO and the ld.CIT(A) erred in rejecting the explanation without displacing the link.

12. Assailing the action of the Ld.CIT(A), the Ld.AR narrated the entire factual history of the assessee's case and also provided the complete set of documents in support of the claim. In support of the claim, the ld.AR relied on the coordinate bench Tribunal decision in the case of Ganapathy Panneerselvam v.ITO, ITA No.609/Chny/2025 dated 27.06.2025, wherein the Tribunal has relied on the decision of the Hon'ble High court of Karnataka and other judicial precedents held that once the source of cash explained and the revenue could not bring on material that the assessee utilised somewhere else, then the cash deposits made to bank account cannot added to Income as unexplained.

*"22. We have heard both the parties, perused materials available on record and gone through orders of the authorities below along with judicial precedents relied on. It is an admitted fact that the assessee is regular in filing his return of income and had filed the return of income by declaring total income of Rs.9,64,490/- for AY 2015-16, Rs.10,89,430/- for AY 2016-17, and Rs.9,94,670/- for AY 2017-18. Further, it is undisputed fact that the assessee had withdrawn cash aggregating to Rs.42,50,000/- from his bank account from 10.05.2015 to 29.05.2016. In support of the cash deposit made, the assessee had furnished a comprehensive cash flow statement, a summary of cash inflows and outflows, bank statement and extracts from the cash book both before the AO as well as the ld.CIT(A). These documents collectively demonstrate that the cash deposits of Rs.15,10,500/- made into the assessee's bank account during the demonetization period were sourced from earlier cash withdrawals from the same bank account. We note that it is evident that the assessee has duly discharged the initial burden of proof by establishing the source of the cash deposits as unutilized cash withdrawals. It is a settled position in law that while an assessee is required to prove a positive fact, he cannot be expected to prove a negative. In such circumstances, the onus shifts to the Assessing Officer to rebut the explanation by bringing on record any material evidence to show that the withdrawn cash was utilized or diverted for some other purpose.*

*23. In the present case, the Assessing Officer has not brought on record any such material to suggest that the cash withdrawn earlier was spent, invested, or otherwise deployed elsewhere. We note that the only basis for the AO's rejection of the assessee's explanation is the time gap between the withdrawal and the subsequent re-deposit of cash. However, it is to be noted that there is no statutory or judicially prescribed time limit within which cash must be re-deposited to be considered explained. The mere existence of a time gap, without any corroborative evidence of alternate use of funds, cannot be a valid ground to disbelieve the assessee's explanation. Furthermore, there is no legal bar on an assessee retaining cash in hand for a reasonable period, particularly when the source of such cash is accounted for and traceable through bank withdrawals. The AO's inference that no prudent person would hold cash and forego interest is speculative and not based on any evidence specific to the assessee's financial conduct or circumstances.*

*24. It is also an undisputed fact that the assessee's sole source of income is interest, as accepted by the AO. There is no allegation or finding on record to suggest that the assessee has any other source of income. Therefore, in the absence of any contrary evidence or material brought on record by the AO, the cash deposits made in the bank account cannot be presumed to represent income from an undisclosed source. The AO's primary concern appears to be that a prudent person would not keep substantial cash in hand, thereby foregoing interest income, and has presumed that the cash withdrawn must have been utilized for some other purpose. However, such a presumption is merely based on conjecture and not supported by any material evidence on record. It is not for the AO to decide that the assessee should have acted in a financially prudent manner, which expectation is unreasonable and cannot form a valid basis for drawing an adverse inference. The AO has neither demonstrated nor established that the cash withdrawals were in fact utilized or diverted elsewhere. Mere assumptions regarding the utilization of cash without concrete evidence cannot justify an addition u/s. 69 of the Act. It is a well-settled principle that additions cannot be made based on suspicion or surmise. Therefore, in our considered view, in the absence of any positive finding or evidence to contradict the* *assessee's explanation, the presumption that the cash deposits are unexplained is not sustainable.*

*25. The Hon'ble Karnataka High Court in S.R. Venkata Ratnam v. CIT [1981] 127 ITR 807 (Kar) has held as under:*

> *"….once the petitioner-assessee disclosed the source as having come from the withdrawal made on a given date from a given bank, it was not for respondents Nos. 1 and 2 to concern themselves with what the assessee did with that money, i.e., whether he had kept the same in his house or utilised the services of a bank by depositing the same. The ITO had only two choices before him. One was to reject the explanation as not believable for the reason that on his investigation no such pigmy deposit was ever made in the bank. In the alternative he ought to have called upon the assessee-petitioner to substantiate his claim by documentary evidence. Having exercised neither of the choices, it was not open to the ITO to merely surmise that it would not be probable for the assessee to keep Rs. 15,000 unutilised for a period of two years. The ITO should have given an opportunity to the assessee to substantiate his assertion as to the source of his capital outlay."*

*26. Following the above judgment, the Hon'ble Karnataka High Court in Smt. P. Padmavathi v. ITO (ITA No. 414/2009, dated 06.10.2020), has held as under:*

> *'"12. In this case, it is not in dispute that the assessee withdrew a sum of ₹.5,00,000/- on 18.8.2003 and ₹.2,00,000/- on 20.8.2003 from her savings account. She is an agriculturist and she had agricultural income. Once she demonstrated that she was in possession of ₹.7,00,000/- cash plus agricultural income on her hands, if after 40 days, a cash deposit is made to the extent of about ₹.5,20,000/- towards loan account, it cannot be said that the source of the said deposit is not properly explained. Merely because there is a delay of 40 days from the date of withdrawal of the money from the bank account to the date of deposit in the loan account. Once money is shown to be in the account and withdrawn, what the assessee did with that money till it was actually deposited, is not the concern of the Department. As long as the source is explained and established and when the money is withdrawn from a savings bank account and paid to discharge loan by deposit into a loan account, it is not possible to hold that the source is not explained. In that interregnum period, if the very same money is utilised for other purpose and thereafter, it is appropriated towards discharge of a loan, that cannot be held against the assessee. In that view of the matter, the finding recorded by the Tribunal is erroneous and requires to be set aside. Therefore, the said substantial question of law is also held against the revenue and in favour of the assessee."*

*27. The Hon'ble Delhi High Court in Jaya Aggarwal v. ITO [2018] 92 taxmann.com 108 (Del) has held as under:*

> *"8. We find it difficult to accept the approach and findings recorded for several reasons. The brief order does not examine and consider the entire explanation and material on record as withdrawal of Rs.2,00,000/- in cash was undisputed. Naturally, the huge withdrawal was for a purpose and objective. From the beginning the explanation given was*

> *that withdrawal was to pay earnest money for purchase of immovable property, which deal did not fructify. Explanation given was not fanciful and sham story. It was perfectly plausible and should be accepted, unless there was justification and ground to hold to the contrary. Delay of some months in redeposit of part amount is the sole and only reason to disbelieve the appellant. Persons can behave differently even when placed in similar situations. Due regard and latitude to human conduct and behaviour has to be given and accepted when we consider validity and truthfulness of an explanation. One should not consider and reject an explanation as concocted and contrived by applying prudent man's behaviour test. Principle of preponderance of probability as a test is to be applied and is sufficient to discharge onus. Probability means likelihood of anything to be true. Probability refers to appearance of truth or likelihood of being realised which any statement or event bears in light of the present evidence (Murray's English Dictionary). Evidence can be oral and cannot be discarded on this ground. Assessment order and the appellate orders fall foul and have disregarded the preponderance of probability test."*

> *28. Therefore, in the present facts and circumstances of the case and the ratio decidendi laid down in the aforementioned judgments is directly applicable to the facts and circumstances of the present case concerning the assessee and hence we are inclined to set aside the order of the ld.CIT(A). Accordingly, by respectfully following the binding precedent, we hold that the addition of Rs.15,10,500/- made u/s.69 of the Act in the hands of the assessee, is not justified in law. Consequently, the said addition stands deleted."*

13. Further the ld.AR also relied on decision of the Hon'ble Supreme Court in the case of Sreelekha Banerjee & Ors. v. CIT reported in [1963] 49 ITR 112 (SC), observed that

> *"The department could not act unreasonably and reject that explanation to hold that it was income. If, however, the evidence was unconvincing then such rejection could be made. The department cannot by merely rejecting unreasonably a good explanation, convert good proof into no proof "*

14. Per contra, the Ld.DR appearing for the Revenue, vehemently supported the findings of the AO as well as Ld.CIT(A) for rejecting the appeal.

15. We have heard the rival submissions, carefully perused the orders of the authorities below and examined the material available on record. We have also considered the judicial precedents relied upon. The solitary issue that arises for our consideration is whether the authorities below were justified in treating the cash deposits of Rs.76,45,000/- made by the assessee during the previous year

relevant to Assessment Year 2017-18 as unexplained investment u/s.69 r.w.s 115BBE of the Act.

16. The undisputed facts reveal that the assessee was one of the partners of M/s.South India Prime Tannery, Hyderabad. Pursuant to the dissolution of the partnership firm under the orders of the City Civil Court, Hyderabad, an immovable property situated at Bakaram, Hyderabad, devolved upon the assessee. The said property was subsequently sold during February 2014 for a consideration of Rs.1,04,49,000/-, which, as evidenced by the registered sale deeds, was received entirely in cash. The Revenue has nowhere disputed either the genuineness of the sale transaction or the receipt of sale consideration in cash as recorded in the registered documents. The sale proceeds were reflected as cash in hand in the books as on 31.03.2014 and, according to the assessee, continued to remain available till the relevant previous year, out of which a sum of Rs.76,45,000/- was deposited into the bank account for meeting the income-tax liability pertaining to the erstwhile partnership firm.

17. The explanation of the assessee before the AO was that, during the intervening period, the cash was temporarily advanced as small interest-free financial assistance to economically weaker members of the Jamaat in accordance with his religious beliefs and was subsequently recovered before being deposited into the bank account. The AO rejected this explanation on the ground that such lending to numerous persons was contrary to normal human conduct and that the explanation failed the test of human probabilities. The ld.CIT(A) concurred with the AO by holding that advancing nearly one crore of rupees as hand loans to poor persons was inherently improbable and, therefore, sustained the addition made u/s.69 of the Act.

18. In our considered opinion, both the authorities below have proceeded on an erroneous legal premise. The entire focus of the AO has been on the temporary utilisation of the cash during the intervening period rather than on the original source of the cash itself. Once the assessee has demonstrated, by producing registered sale deeds, that the source of the cash originated from the

of an immovable property and the Revenue has accepted the genuineness of such transaction, the enquiry ought to have been confined to examining whether there existed any material to establish that such cash had been spent, diverted, invested elsewhere or had otherwise ceased to remain available with the assessee. The Revenue has not brought on record any evidence whatsoever to demonstrate that the sale proceeds had been utilised for any other purpose.

19. The AO rejected the explanation only on the basis that it appeared improbable that the assessee would retain such substantial cash for a prolonged period or temporarily lend it to numerous individuals without charging interest. Such reasoning, in our view, is founded merely on conjectures and subjective notions of prudence. The Income-tax Act does not authorise the Revenue to make additions merely because the AO considers the conduct of the assessee to be commercially imprudent or inconsistent with his own perception of normal human behaviour. Therefore, merely because an explanation appears unusual, it cannot be discarded unless it is shown to be false by cogent evidence.

20. It is a settled proposition of law that suspicion, however strong, can never substitute legal proof. Additions u/s.69 of the Act can be sustained only when the explanation offered by the assessee is either disproved or found to be inherently false on the basis of tangible evidence. Mere disbelief or rejection of the explanation without any supporting material cannot justify an adverse inference. We find considerable force in the contention of the ld.AR that the Revenue has failed to dislodge the direct nexus established between the original source of the cash and the subsequent deposits made into the bank account. It is not the case of the Revenue that the registered sale deeds are fabricated or that the assessee had any undisclosed source of income during the relevant previous year. Equally, no material has been brought on record to establish that the cash received on sale of the property was exhausted or invested elsewhere. In the absence of any such evidence, the presumption

drawn by the AO that the cash must have been utilised for some other purpose is nothing but speculation.

21. We also find that the immediate utilisation of the deposited amount towards discharge of the tax liability relating to the erstwhile partnership firm lends further support to the assessee's explanation that the deposits represented the very same sale proceeds which were retained by him and later deposited for a specific purpose. This surrounding circumstance has not been disputed by the Revenue.

22. The Coordinate Bench of this Tribunal in Ganapathy Panneerselvam v. ITO (ITA No.609/Chny/2025 dated 27.06.2025), after considering the judgments of the Hon'ble Karnataka High Court and the Hon'ble Delhi High Court, has categorically held that once the assessee establishes the source of the cash and the Revenue fails to bring any material to show that the cash had been utilised elsewhere, mere delay between receipt and redeposit or subjective disbelief regarding retention of cash cannot justify an addition u/s.69 of the Act. The Tribunal further held that the burden shifts upon the Revenue after the assessee has discharged the initial onus and that additions cannot be sustained merely on assumptions or conjectures.

23. The aforesaid principle finds complete support from the judgment of the Hon'ble Karnataka High Court in S.R. Venkata Ratnam v. CIT [(1981) 127 ITR 807], wherein it has been held that once the assessee establishes the source of the cash, the Department cannot concern itself with how the assessee retained or utilised the money in the intervening period unless there exists material to disprove the explanation. Similarly, in Smt.P.Padmavathi v. ITO (ITA No.414/2009 dated 06.10.2020), the Hon'ble Karnataka High Court held that once the availability of cash is established, the mere lapse of time between withdrawal and redeposit cannot be a ground to reject the explanation. The Hon'ble Delhi High Court in Jaya Aggarwal v. ITO [(2018) 92 taxmann.com 108] has further observed that explanations cannot be rejected merely by applying the test of prudent human conduct and that due latitude must be given to

variations in individual behaviour while appreciating the preponderance of probabilities.

24. The ld.AR has also rightly relied upon the judgment of the Hon'ble Supreme Court in Sreelekha Banerjee & Others v. Commissioner of Income-tax [(1963) 49 ITR 112 (SC)], wherein the Hon'ble Apex Court authoritatively held that once an assessee furnishes a reasonable explanation supported by evidence, the Department cannot arbitrarily reject such explanation and thereby convert good proof into no proof. If the explanation is to be rejected, the same must be on the basis of cogent evidence demonstrating its falsity and not on mere suspicion or conjecture.

25. Applying the ratio laid down in the above judicial pronouncements to the facts of the present case, we are of the considered opinion that the assessee has successfully discharged the burden cast upon him under the provisions of the Act by establishing the origin of the cash through registered sale deeds, explaining the availability of cash and demonstrating the nexus between the sale proceeds and the subsequent deposits. Once such primary evidence was produced, the burden shifted upon the Revenue to establish, through positive evidence, that the cash had either been diverted, invested or otherwise ceased to remain available. The Revenue has failed to discharge this burden. The rejection of the assessee's explanation rests entirely upon assumptions regarding human behaviour without any corroborative evidence.

26. In these circumstances, we hold that the authorities below were not justified in invoking the provisions of section 69 of the Act. The impugned addition has been sustained merely on suspicion and conjectures, which is impermissible in law. Respectfully following the binding ratio laid down by the Hon'ble Supreme Court, the Hon'ble Karnataka High Court, the Hon'ble Delhi High Court and the Coordinate Bench of this Tribunal, we hold that the addition of Rs.76,45,000/- made u/s.69 r.w.s 115BBE of the Act, is unsustainable.

27. Accordingly, the order of the ld.CIT(A) is set aside and the AO is directed to delete the addition of Rs.76,45,000/- by allowing the grounds of the appeal of the assessee.

28. In the result the appeal of the assessee is allowed.

Order pronounced in the court on 22nd July, 2026 at Chennai.

Sd/-
(एस एस विश्वनेत्र रवि)
**(S.S. VISWANETHRA RAVI)**
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
**(S. R. RAGHUNATHA)**
लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 22nd July, 2026.

***Devadas***

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GFv

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