

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 89/Asr/2023**  
Assessment Year: 2017-18

M/s SBM Gold  
WG 394, Niwan Surajganj,  
Jalandhar

[PAN: ADCFS 0315F]  
**(Appellant)**

**V.** Income Tax Officer,  
Ward-1(4), Jalandhar

**(Respondent)**

Appellant by Sh. Surinder Mahajan, CA

Respondent by Sh. S. M. Surendranath, Sr. DR

Date of Hearing : 16.05.2023  
Date of Pronouncement : 25.05.2023

**ORDER**

**Per Dr. M. L. Meena, AM:**

This appeal has been filed by the assessee against the order of the Ld. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 25.02.2023 in respect of Assessment Year 2017-18.

2. The assessee has raised the following ground of appeal:

- “1. That on facts and circumstances of the case Learned Commissioner of Income Tax (Appeals) [‘CIT(A)’], has grossly erred in law in rejecting legal ground raised by the assessee wherein assessee has challenged that assessment framed u/s 143(3) of the Act is without jurisdiction and as such is illegal & bad in law.
2. That on the facts and circumstances of the case, Learned Commissioner of Income Tax (Appeals) [‘CIT(A)’], has grossly erred in law in confirming addition of Rs. 1,75,588/- made by the Assessing Officer u/s 68 of the Income Tax Act, 1961. Addition confirmed is illegal and bad in law.
3. That on the facts & circumstances of the case, Learned Commissioner of Income Tax (Appeals) [‘CIT(A)’], has grossly erred in rejecting legal ground of appeal No. 3, wherein assessee has challenged that addition of Rs. 1,75,588/- made without invoking provisions of section 145(3) of the Act is illegal & bad in law.
4. That on facts and circumstances of the case, order passed by the Learned Commissioner of Income Tax (Appeals) [‘CIT(A)’], is illegal and bad in law and has been passed without considering the submissions of the assessee
5. That the Appellant requests for leave to add or amend the grounds of appeal before the appeal is heard or disposed off.”

3. Facts as per record are that assessee is a partnership firm and it filed return declaring income of Rs. 2,49,860/- on 28.10.2017. The case of the assessee was selected for scrutiny under CASS for the reason that cash was deposited during demonetization period. The AO being not satisfied, made addition of Rs. 1,75,588/- u/s 68 of the Act to be charged to tax u/s 115BBE of the Act. Assessee filed appeal against addition made of Rs.

1,75,588/- before CIT(A) who has confirmed the said addition by observing as under:

*“5.4. On merit, the appellant has stated that the name and address of the parties from whom the advance had been received had been provided to the Assessing Officer. It has been explained by the appellant that as per the routine practice followed by jewellers, customers give money in advance and take jewellery later on some occasion or some festival. Further, the appellant has claimed that as per practice, such advances are given by customers in cash as the jewellery is required by them for personal issue. The appellant has filed a copy of bill No. dated 24.04.2018 of Rs. 1,59,750/- from one 'Jaura Jewellers' for such advance.*

*5.5 It is seen that parties in whose advance had been shown are not individuals but are business concerns. It is surprising that such business entities would have given advance so much cash in advance and that too after deciding the selling / buying price of the jewellery so much in advance. In gold and jewellery business there is frequent change in price. No prudent businessman would receive advance at pre-determined rate. No further payment or receipt has been shown against this party. This shows that the bill shown by the appellant is self-serving and is an after-thought. The details stated to have been furnished to the AO during the assessment proceeding are not complete details, as neither the amount of advance, nor complete address had been mentioned by the appellant in its reply. Hence, it is clear that the appellant had not furnished before the AO the complete details of the amount shown as advances received from customers. The explanation given by the appellant during the appellate proceeding cannot be accepted. The grounds raised are rejected.”*

4. At the outset, the Ld. AR submitted that the appellant assessee has filed the details required by the AO in explanation to the source of the disputed cash of Rs. 1,75,588/- deposited in the bank during demonetization period. In support, he has filed a brief note with a paper which reads as under:

“1. That assessee on 30.11.2019 filed information, copy of letter enclosed herewith as Annexure A. In para 2 of the letter, assessee gave name and address of both the parties from whom advances have been received and requested that in case any confirmation required from above said parties, information can be called from above said parties. Para 2 of the letter reads as under:

Addresses of persons from whom advance has been taken during the year is enclosed:-

- a) M/s Jaura Jewellers:- Gaushala Road, Phagwara
- b) M/s Preet Jewellers - Main Bazar, Mullanpur, Dist Mohali,

In case of any confirmation required, the department can call for any information from the above parties

2. That again assessee filed information on 06.12.2019, copy enclosed herewith as Annexure B. In this letter assessee in para 3 of the letter submitted that Jaura Jewellers from whom advance was received have been issued bill no 08 dt. 24.04.2018 of Rs 159750/- against the said advance. Assessee filed copy of bill issued to the party. Same is enclosed herewith as Annexure C.

3. That observations made by Assessing Officer while making addition of Rs. 1,75,588/- are not correct in view of the fact that assessee had filed details of advances received alongwith balance sheet. Names and addresses of the parties from whom advances have been received vide letter filed on 30.11.2019. Copy of bill issued against advance received vide letter filed on 06.12.2019.

4. That no query was raised by the Assessing Officer after filing of information with reference to advances received from the customers which implies that information filed by the assessee was to the satisfaction of Assessing Officer.

Screenshot of documents filed enclosed herewith at page no 3-4.”

5. Per contra, the Ld DR although supported the impugned order, however, he has not filed any rebuttal to the contention raised by the counsel.

6. Heard rival contentions, perused the material on record, impugned order, written submission and case law cited before us. Admittedly, the appellant has filed letter giving details name and address of both the parties from whom advances have been received (Annexure-A) wherein addresses of persons from whom advance has been taken during the year were filed as under: -

- a) M/s Jaura Jewellers:- Gaushala Road, Phagwara
- b) M/s Preet Jewellers:- Main Bazar, Mullanpur, Dist Mohali,

6.1 The Ld. AR contended that assessee has filed further information on 06.12.2019, (Annexure B), stating therein that Jaura Jewellers from whom advance was received have issued bill no 08 dt. 24.04.2018 of Rs 159750/- against the said advance (Annexure C). Thus, the observations of the Assessing Officer in making addition of Rs. 1,75,588/- are not correct in view of the fact that assessee had filed details of advances received alongwith balance sheet, Names and addresses of the parties from whom advances have been received vide letter filed on 30.11.2019 and Copy of bill issued against advance received vide letter filed on 06.12.2019. The authorities below ought to have made necessary verification of disputed

advance claimed to be received from the parties as per detailed filed by the appellant.

7. From the above, it evident that the AO has made addition without verification of the details of Names and addresses of the parties from whom advances have been received by the appellant as above. The AO and the CIT(A) ought to have disprove the material evidence filed before them and establish that the advance giving parties were either bogus parties or non-genuine. It is seen that the AO has made addition of Rs. 175588 u/s 68 of the Act to be charged to tax u/s 115BBE of the Act without confirming from the advance givers by verification of information on the copy of account regarding the advances. The Ld. CIT(A) has confirmed the addition without appreciating the facts of the case and considering the submission of the appellant, in observing that bills shown by the appellant is self-serving and is an after-thought while rejecting the appeal of the assessee in arbitrary manner. In our view, the order of the Ld. CIT(A) has passed the order in mechanical manner without rebutting the contentions raised before him. We hold that the impugned order is perverse to the facts on record and same is liable to be set aside. Since, the assessee gets relief on merits, hence the legal issue rendered academic.

8. In view of that matter, we accept the grievance of the assessee as genuine and as such the addition of Rs. 1,75,588/- u/s 68 of the Act to be charged to tax u/s 115BBE of the Act, is deleted.

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

*Order pronounced in the open court on 25.05.2023*

**Sd/-**  
**(Anikesh Banerjee)**  
**Judicial Member**

**Sd/-**  
**(Dr. M. L. Meena)**  
**Accountant Member**

*\*GP/Sr./P.S.\**

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