

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH, VARANASI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER &  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

**ITA No.10/VNS/2023  
(A.Y. 2017-18)**

ITO -2(1), Aaykar Bhavan, Civil Lines, Gorakhpur Uttar Pradesh – 273001	Vs.	Smt. Neha Gupta 27-H, Majhouli Compound Daudpur, Gorakhpur Uttar Pradesh – 273001
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AYSPG8228N		
Appellant	..	Respondent

Appellant by :	A. K. Singh
Respondent by :	Ashish Bansal

Date of Hearing	27.09.2023
Date of Pronouncement	.11.2023

आदेश / ORDER

**Per Amit Shukla: (JM):**

The aforesaid appeal has been filed by the revenue against the order dated 24.09.2020 passed by CIT(A) Gorakhpur for the quantum of assessment passed in Sec. 143(3) for the assessment year 2017-18.

The revenue has raised the following grounds of appeal before us:

- “1. Whether the Ld. CIT(A) was right in ignoring the fact that cash deposit made during the demonetization period at Rs.37,79,000/- is disproportionate with regard to turnover shown amounting to Rs.60,47,127/-
2. Whether the Ld. CIT(A) was right in accepting the additional ground of explanation in regard to difference between credit entry in bank & turnover shown without asking remand report.
3. The appellant craves right to add alter or amend any ground which may be taken at the time of hearing.”

2. Brief facts as that assessee is an individual engaged in trade of sanitary items, small town of Daudpur Gorakhpur. She has filed the return of income at Rs.2,62,570/- on 30.03.2018. The case was selected for limited scrutiny through CASS on the ground that abnormal increase in cash deposit during the demonetization period as compare to pre-demonetization period. The AO noted that assessee has made cash deposits of Rs.37,79,000/- during the demonetization period the details of which are as under:

Sr. No.	Date	Amount
1.	16.11.2016	27,00,000/-
2.	04.12.2016	7,000/-
3.	08.12.2016	1,42,000/-
4.	25.12.2016	9,00,000/-
5.	30.12.2016	30,000/-

The assessee has declared total turnover of Rs.60,47,127/- as per profit and loss account and in support assessee had submitted cash book from 1.06.2016 to 31.03.2017 showing accumulation cash made during the demonetization period from business. AO noted that the deposit of Rs.37,79,000/- of old currency does not appears to be genuine against turnover of Rs.60,47,127/-. We further noted that in the cash book assessee had shown Rs.27,00,000/- in Bandhan Bank on 16.11.2016 but there was heavy cash brought forward from 1.08.2016 to 16.11.2016 and assessee not deposited cash lying her in bank which she kept in the business premise. Thus, AO out of the said total deposit of Rs.37,79,000/- between the period 16.11.2016 to 30.12.2016 treated Rs.25,00,000/- as unexplained which has been added u/s 69A.

3. The ld. CIT(A) has deleted the said addition observing as under:

*“A perusal of the submission made by the appellant shows that the appellant has disclose total turnover of Rs.60,47,127/- during the year under consideration.*

*Total cash available as on 8/11/2016 was Rs.27,15,267/. The appellant has deposited Rs.37,79,000/- during the demonetization period. This amount was*

*realised from sale of goods. All the deposits in bank is properly mentioned in the books of account and tax audited u/s 44AB of the Act. The AO has not rejected the books a/c nor has pointed out any material defect in them thus implying that the books of a/c were correct and the results obtained through them were acceptable to the AO. The AO has added Rs.25lakhs out of the total deposit out of Rs.37,79,000/- the AO has not provided any reason or basis for taxing Rs.25 lakhs only out of the total deposits made by the appellant. The books of the a/c and the results are substantiated by proper bills and vouchers furthermore no adverse inference has been drawn by the AO in this regard. The AO has made the addition u/s 69A of the Act without making any third party enquiry which is incorrect. The appellant has submitted the nature and source of the deposits it was the duty of the AO to controvert the same however nothing has been brought on record by the AO except for his assumption that it was a false and cooked up story. The appellant had sufficient cash balance from sale by him to deposit the amount in the bank. The AO has not doubted the purchase and stock of the appellant. It is clear that the addition has been made purely on the assumption, it has been held through a number of the judgement that the additions made on the basis of assumptions and surmises which are not backed by any sufficient evidences and reasons are unsustainable in the eyes of the law. In view of the above I find that addition made by the AO is not according to the facts of the case hence the same is directed to be deleted.”*

4. After hearing both the parties on perusal of the relevant material placed on record, it is seen from the perusal of the submissions made before the AO and the details of cash summary that as per books, total cash available as on 08.11.2016 was Rs.27,15,267/-. This amount has been shown from realization from sale of goods, duly recorded in the books and all the deposits in the bank has been duly mentioned in the books of account in the tax audit report u/s 44AB. Out of these amount shown in the books, assessee had deposited Rs.27,00,000/- on 16.11.2016 and balance sum has been deposited in the month of December 2016. Nowhere the AO has given reason as to why assessee's books of account are to be rejected or what is the basis of making adhoc addition of Rs.26,00,000/- out of all the deposit. Once, the assessee had submitted the nature and source of deposit, which is out of duly recorded sales in the books and availability of cash, have been duly disclosed in the cash book, then there is no reason for making such addition. Accordingly, we don't find any reason to tinker with the finding

of the CIT(A) therefore, order of the CIT(A) deleting the addition is confirmed.

5. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on .11.2023

(B.R. Baskaran)  
Accountant Member

(Amit Shukla)  
Judicial Member

Place: Mumbai

Date .11.2023

Rohit: PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench,**  
**Mumbai.**

No.	Details	Date	Initials	Designation
1	Draft dictated on			Sr.PS/PS
2	Draft Placed before author			Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6	Kept for pronouncement on			Sr.PS/PS
7	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date on which file goes to the AR			
10	Date of Dispatch of order			