

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD: JUDICIAL MEMBER**

**ITA No. 2889/Del/2022  
Assessment Year: 2017-18**

**Bharat Bhushan Gandhi,  
5/2600, Gali No.5, Beadon Pura,  
Delhi-1100 05**

**Vs. Income-tax Officer,  
Ward 51(5),  
Delhi**

(Appellant)

(Respondent)

Assessee by : Shri Salil Kapoor, Ms. Ananya Kapoor,  
Shri Tarun Chanana & Shri Shivam  
Yadav, Advocates

Revenue by : Shri Om Prakash, Sr. DR

Date of hearing : 12.10.2023

Date of pronouncement: 04. 01.2024

**ORDER**

This appeal is filed by the assessee against the order of learned Commissioner of Income-Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 17.10.2022 for the assessment year 2017-18 in sustaining the addition of Rs.28,25,000 under Section 68 of the Income-Tax Act,1961 on account of cash deposits during the demonetization period.

2. Brief facts are that the assessee is an individual engaged in the business of retail trading of jewellery, filed the return of income on 31.03.2018 declaring income of Rs.11,44,200.

3. In the course of assessment proceedings, the Assessing Officer required the assessee to explain the source of cash deposits made into bank account during demonetization period. The assessee furnished the requisite details/documents on 16.10.2019 as called for by the Assessing Officer. The Assessing Officer on analyzing the cash sales during the assessment year 2016-17 and during the current assessment year i.e. 2017-18 was of the view that the cash sales made during the current assessment year were abnormally high while compared to the cash sales made during the assessment year 2016-17 for the corresponding period. Therefore, he required the assessee to show-cause as to why an amount of Rs.32,95,000 should not be added as income from undisclosed sources under Section 68 of the Act. In response to the show cause

notice, the assessee filed his reply on 16.12.2019 stating that the cash deposits of Rs.32,50,000 were made out of sale proceeds and past savings. The contention of the assessee was not convinced the Assessing Officer. The Assessing Officer taking note of the fact that the assessee having cash in hand of Rs.3,23,741 out of which Rs.3,00,000 was considered to be the cash available with the assessee as on 19.11.2016. The Assessing Officer also accepted part of cash sales to the extent of Rs.1,70,000 and concluded that the cash deposits aggregating to Rs.28,25,000 remained unexplained and accordingly addition was made.

4. On appeal, learned Commissioner of Income-Tax (Appeals) sustained the addition made by the Assessing Officer.

5. Learned counsel for the assessee submits that the assessee furnished all the information called for by the Assessing Officer. The assessee furnished cash book, details of sales, purchases, stock register, month-wise cash sales and cash deposits from 01.04.2015

to 31.03.2016 and also for the period from 01.04.2016 and also for the period 01.04.2016 to 31.03.2017. Learned counsel further submits that month-wise stock, giving opening stock, purchases and sales in each month along with details, statement of stock accounts were furnished. Learned counsel further submits that assessee has furnished copies of VAT returns for the period from 01.04.2016 to 31.03.2017. The learned counsel submits that the Assessing Officer did not point out any defects in the books of accounts furnished by the assessee. The books of accounts were accepted by both Assessing Officer as well as the learned Commissioner (Appeals). Learned counsel submits that the Assessing Officer has accepted the sales, purchases, accepted the stock tally wherein the assessee was holiday enough stock. Learned counsel submits that the assessee has explained the source for cash deposits as sale of jewellery, opening cash balance and also past savings. Learned counsel submits that having accepted part cash sales by the Assessing Officer, there is no justification in

not accepting the remaining cash sales especially when there is no discrepancy pointed out in the books of account. The learned counsel strongly placed reliance on the decision of the Mumbai Bench of the Tribunal in the case of ACIT vs. M/s. Ram Lal Jewellers Pvt. Ltd. in ITA No.1600/Mum/2023 dated 26.07.2023. Referring to the decision, learned counsel submits that on identical facts, Mumbai Bench of the Tribunal deleted the addition made on account of cash deposits on the ground that if the parties during the period of demonetization has purchased huge quantity of jewelry and cash which has been duly recorded in the books of account of the assessee and also tallying with the quantity of stock then simply because there was a huge cash sales in the particular month, cannot be a reason for trading the cash sales as undisclosed income. Reliance was also placed on the decision of the Coordinate Benches in the case of DCIT vs. Bala Jewelers Ltd. in ITA No.352/Del/2021 dated 09.06.2023 and also the decision of

the Delhi High Court in the case of PCIT vs Agson Global Pvt. Ltd. 441 ITR 550.

6. On the other hand, learned Departmental Representative strongly supported the orders of the authorities below.

7. Heard rival contentions, perused the orders of the authorities below and the material placed before me.

8. In the course of assessment proceedings, the Assessing Officer required the assessee to explain the cash deposits of Rs.32,95,000 made in the bank account during the demonetization period, the assessee explained that this amount was deposited out of sale proceeds and past savings, thus, the assessee also furnished letter dated 16.10.2019 furnishing various details called for by the Assessing Officer. The information/documents furnished by the assessee are as under:

“Dear Sir,

With reference to your Notice No. ITBA/AST/F/2019-20/1018648636(1) dated 07.10.2019, where your good self

has stated that information asked for vide Notice No. ITBA/AST/F/142(1)/2019-20/1017941988(1) dated 12.09.2019 has not been filed in full now we are submitting herewith the balance details:-”

Point No. 4

Copy of cash account with narration of entries is enclosed.

Point No. 5

The assessee has not taken any loan from the outside party during the year under consideration.

Point No. 6

The assessee proprietary Firm Gandhi jewelers is in the business of trading in jewellery and no services has been provided to the clients. The assessee has not taken any Service Tax Number hence there is no service tax return and no service agreement.

Point No. 8

Month-wise details of sales and purchases in the prescribed Performa for the current year as well as preceding year is enclosed.

Point No. 9

Month-wise cash sales and cash deposit from 01.04.2015 to 31.03.2016 is enclosed.

Point No. 10

Month-wise cash sales and cash deposit from 01.04.2016 to 31.03.2017 is enclosed.

Point No. 11

Details of Top Ten parties to whom the sale were made including cash sale for the current year as well as preceding year is also enclosed.

Point No. 12

Details of Top Ten parties to whom the purchases were made in the prescribed Performa for the current year as well as preceding year is also enclosed.

Point No. 13

The month-wise stock giving opening stock purchases and sales in each month along with the detail statement of stock account is enclosed.

Point No. 14

Vat return for the period 01.04.2016 to 31.03.2017 is enclosed. Whenever the returns were revised the reason for the same is given hereunder:

F.Y. 2016-17			
Vat/Service Tax Returns	Original Turnover	Revised Turnover	Remarks
Quarter-1	Rs.7,13,000/-	Rs.7,13,000/-	There is purchase of Rs.6,00,000/- in 01 <sup>st</sup> Qtr in the revised return no purchase was there.

Quarter-II	Rs.1796793	Rs.17,96,793/-	There is no reason for revision in the 02 <sup>nd</sup> Qtr. Sales and purchases are same.
Quarter-III	Rs.31,69,674/-	Rs.36,88,824/-	Few bills of sales were not taken in the original return

Copy of the VAT return for the F.Y. 2016-17 in original as well as revised return enclosed.

9. It is observed that inspite of the assessee furnishing the cash book month-wise cash sales, purchase, month-wise stock giving opening stock purchases and sales in each month along with detailed statement of accounts, the Assessing Officer did not point out any defects in the books of accounts and the information furnished. The only apprehension of the Assessing Officer in treating the cash deposits as undisclosed was abnormal increase in cash sales made during the year and with comparison to the cash sales made by the assessee in the previous assessment year. The

analysis made by the Assessing Officer that the cash sales corresponding to the period from April 2016 till 08.11.2016 were more than the cash sales during the period from 01.04.2015 to 08.11.2015 is the only basis for disbelieving the cash sales. It is noticed that the Assessing Officer himself accepted part of the cash sales by assuming that the assessee might have made cash sales to the extent of Rs.1,70,000. 10. Having accepted the purchases, part sales and the stocks shown by the assessee in the books of accounts and without rejecting the books of accounts, the Assessing Officer is not justified in disbelieving the cash sales made by the assessee simply because the cash sales or more than the cash sales for the corresponding period of the previous year. The Mumbai Bench of the Tribunal in the case of ACIT vs. Ram Lal Jewellers Pvt. Ltd. (supra) also considered an identical situation and the Tribunal held as under:

*"12. We find that the only reason given by the Id. AO for treating the entire cash deposited in the bank account is that, there was abnormal growth on the cash sales in the month of November 2016 and corresponding cash deposits from the month of*

November to December, which alone cannot be the ground when deposits are directly linked with sale duly disclosed in the books. Another point raised by him was that, some of the cash sales made to different parties cannot be identified and the parties who responded were unable to explain the source of their funds. From the perusal of the material placed on record and also the explanation given by the assessee before the Id. AO, it is seen that assessee has maintained regular books of accounts which was subject to audit and has produced the entire sale bills, stock register and purchases and also quantitative tally of sales and corresponding stock. The assessee has also demonstrated that there was a direct correlation of cash outflow from the books of accounts with cash deposit in the bank accounts and also produced day wise stock report, wherein the outflow of stock against sales has been clearly reflected. Apart from that, sales declared under the Maharashtra VAT Act and the VAT return completely tallied with the sales of the assessee shown in the books of accounts. Even the Id. AO before whom all these documents were furnished has not pointed out any discrepancy in the sales bills, sales register, purchases and stock. Neither has he admitted the quantity of purchases at the stock with assessee and the corresponding quantity of sales made by the assessee during the year.

13. Another important fact is that assessee has duly filed cash compliance report with respect to cash sales in Form 61A giving all the details with respect to cash sales. Nowhere, the Id. AO has pointed out that assessee did not have sufficient stocks in its possession or otherwise found any defect in the stock register. If that finding has not been given and no discrepancy has been pointed out, then how the corresponding sales of same stock and quantity can be treated as 'undisclosed income' of the assessee. Once, AO has accepted the sales and there is direct nexus with the closing stock and the sales along with movement of stock linked to purchases then such credit on account of sales cannot be added u/s.68. If the cash sales have been accepted, then deposit of the same cash in the bank account which is tallying with the entries in regular cash book, cannot be treated as deposits made out of any undisclosed income.

14. Addition u/s.68 on account of cash deposits cannot be made simply on the reason that during the demonetization period, cash deposits vis-a-vis cash sales ratio is higher. If the parties during the period of demonetization has purchased huge quantity of jewellery on cash which has been duly recorded in the books of accounts of the assessee and also tallying with the quantity of stock, then simply because there was a huge cash sales in that particular month cannot be the reason for treating it as undisclosed income from undisclosed sources. Here in this case the parties to whom notices u/s. 133(6) were issued have confirmed the purchases but also filed the purchase bills. The Id. AO cannot disbelieve the purchases made from the assessee simply on the ground that those parties could not submit the source of their funds which is not the requirement of the assessee to prove specifically when assessee is a retail seller of jewellery and even law does not prohibit any cash sales or there is any requirement to seek any further detail. For this compliance assessee has also filed Form 61A before the Id. AO. Once, it has been

*established that sales representing outflow of stocks is duly accounted in the books of accounts and there are no abnormal profits during the year, then there is no justification why AO should treat the deposits made in the bank account out of cash sales to be income from undisclosed sources. Thus, aforesaid finding recorded by the Id. CIT(A) which is based on correct appreciation of facts on record and there is no adverse finding by the Id. AO with regard to the availability of stock and quantity of items shown in the stock register and the corresponding sales, no addition can be made. Accordingly, order of the Id. CIT (A) is confirmed and the grounds raised by the Revenue is dismissed.*

*15. Once, the entire addition u/s.68 is deleted then the issue of invoking provisions to Section 115BBE is purely infructuous and we agree with the finding given by the Id. CIT (A) in this regard as incorporated above”.*

11. Similar are the facts in the case of hand, the Assessing Officer did not point out any discrepancy in the purchases, sales and stocks recorded by the assessee in the books of accounts. In the circumstances, only an assumption that there could be some cash deposits based on the higher turnover in cash sales when compared to the cash sales made by the assessee in the immediately preceding assessment year is not correct. Thus, in the absence of any adverse finding by the Assessing Officer that the purchases, sales and stock are not genuine and in the absence of rejection of books of account, there is no justification in assuming that the assessee has made cash deposits outside the books of

accounts. Thus, the addition made by the Assessing Officer under Section 68 of the Act is delete.

12. In the result, the appeal is allowed.

Order pronounced in the open court on 04/01/2024.

**Sd/- (CHALLA NAGENDRA PRASAD)  
JUDICIAL MEMBER**

Dated: 04.01.2024  
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Assistant Registrar  
ITAT New Delhi