

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH

**Before: Shri Ramit Kochar, Accountant Member**

**ITA No. 43/Ahd/2024  
Assessment Year 2017-18**

Krutika Ashwin Sarvaiya, 27, Bhavna Society, Geeta Mandir Road, Ahmedabad-380022 Gujarat PAN: ACUPS2401H (Appellant)	v.	The Income Tax Officer, Ward-5(3)(4), Aaykar Bhawan Vejalpur , Near Sachin Tower, Ahmedabad- 380015, Gujarat  (Respondent)
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**Assessee by: Shri S.N. Divatia, Advocate**  
**Revenue by: Smt. Trupti Patel, Sr. D.R.**

Date of hearing : 03-07-2024  
Date of pronouncement : 12-07-2024

**आदेश/ORDER**

This appeal in ITA No. 43/Ahd/2024 for assessment year 2017-18 has been filed by the assessee with Income Tax Appellate Tribunal, Ahmedabad Bench, Ahmedabad against the appellate order dated 15-11-2023 passed by Id.

Commissioner of Income-Tax(Appeals), NFAC, Delhi (vide DIN and Order No. ITBA/NFAC/S/250/2023-24/1057964293(1)) u/s 250 of the Income-tax Act, 1961, which in turn has arisen from the assessment order dated 25.12.2019 passed by Id. Assessing Officer u/s. 143(3) of the 1961 Act(DIN and Order No. ITBA/AST/S/143(3)/2019-20/1023072128(1)).

2. The grounds of appeal raised by the assessee in Memo of appeal filed with Income Tax Appellate Tribunal, Ahmedabad, Bench, Ahmedabad , reads as under:-

*1.1 The order passed u/s. 250 on 15.11.2023 by NFAC(CIT(A) Delhi for A.Y.2017-18 confirming the addition of Rs.20,00,000/- in respect of cash deposits made in bank account during demonetization period as unexplained credit u/s.69A r.w.s. 115BBE made by AO is wholly illegal, unlawful and against the principles of natural justice.*

*1.2 The Ld. NFAC has grievously erred in law and or on facts in not considering fully and properly the explanations furnished and the evidence produced by the appellant. The Ld. NFAC ought to have allowed sufficient opportunity to the appellant. The NFAC has completely ignored the material/evidences produced by the appellant without giving any reason. Thus, there was gross violation of the principles of natural justice.*

*2.1 The Ld. NFAC has grievously erred in law and or on facts in upholding that cash deposits in bank account*

*during demonetization period to the extent of Rs.12,00,000/- was unexplained moneys u/s.69A and thereby confirming addition of Rs.20,00,000/-.*

*2.2 That in the facts and circumstances of the case as well as in law, the Ld. NFAC has grievously erred in upholding that cash deposits in bank account during demonetization period to the extent of Rs.12,00,000/- was unexplained cash moneys u/s,69A and thereby confirming addition of Rs. 20,00,000/-*

*2.3 The averments and observations made and conclusion reached by AO to treat the cash deposits of Rs.20,00,000/- made in bank account as unexplained cash moneys are not admitted and the same are contrary to the evidence produced before him, apart from being presumption, surmise and conjecture so that they are not binding to the appellant.*

*2.4 The Ld. NFAC has grievously erred in law and or on facts in invoking the provisions of Sec 69A r.w.s. 115BBE to confirm impugned addition of Rs.20,00,000/- in respect of cash deposits in bank account during demonetization period.*

*2.5 Without prejudice to above and in alternative, the impugned addition made by AO is highly excessive and calls for reduction.*

*It is therefore prayed that the addition of Rs.20,00,000/- made by the AO and confirmed by NFAC should be deleted.*

3. The brief facts of the case are that the assessee filed return of income on 14-02-2018 , declaring total income of Rs. 8,41,690/-, which was processed by Revenue u/s. 143(1) of the Act. The assessee is an individual. The case of the assessee was selected by Revenue for framing limited scrutiny under CASS, and notice u/s. 143(2) was issued by AO on 24.09.2018 which was claimed by the A.O. to have been duly served upon the assessee. Further statutory notices u/s. 142(1) dated 07.06.2019 ,14.08.2019 and 19.11.2019 were issued by the A.O. to the assessee. The A.O. has observed that the assessee has not filed satisfactory reply to the notices issued, and the assessee has furnished general and vague replies. Another notice u/s. 142(1) dated 11.12.2019 along with Show Cause Notice(SCN) was issued to the assessee by the A.O. which is reproduced by the A.O. in Page 2 & 3 of the assessment order , in which the A.O. proposed to make addition of Rs. 20 lacs with respect to cash deposited by the assessee with Bank of India, Panchvati, Ambawadi, Ellisbridge, Gujarat in Bank Account No. 200116710000240 on 23.11.2016 of Rs. 10 lacs and further deposit of Rs. 10 lacs on 03.01.2016, and the assessee was called upon by the AO to furnish supporting documentary evidences in support of his claim i.e. proof of having done agricultural operation, Identity of purchasers, Proof of purchases of seed/fertilizer, pesticides, Copy of all sale bills for agriculture products, etc.. The AO

observed that the assessee has submitted only copy of proof of ownership of land and incomplete purchases invoice without GSTIN and proper address of purchaser. The A.O. proposed to make addition with respect to cash deposited during the demonetization period amounting to Rs.20 Lacs under the provisions of Section 69A of the Act. The A.O. at Para No. 5 has stated that the reply filed by the assessee is reproduced hereunder but no such reply was reproduced by A.O. at para 5 in the assessment order. Further in Para 6, the AO has stated that the Ward Inspector was deputed to enquire whether J B & Sons is operating business activities from the above address and report accordingly. The A.O. has stated in assessment order page 4 at Para 6 that the aforesaid Inspector report is reproduced but no such inspector report was reproduced by the A.O. in the assessment order. Fresh opportunity was given by the A.O. to the assessee , and the assessee submitted that in the absence of clear information with the A.O., it cannot be inferred that no such business activity had been carried out at the address mentioned in the invoice without establishing the same against the assessee. The A.O. rejected the contention of the assessee , and observed that the assessee has shown agricultural income of Rs. 8,40,900/-. The assessee has furnished copy of sale bills amounting to Rs. 8,40,900/- from J B & Sons at Near Swastik Textile, Armaiwadi, Ahmedabad The sales bills were issued by J B & Sons in favour of the

assessee for the product Mungfali (groundnut) , bill no. 65 dated 18.10.2016 for Rs. 4,49,500 and bill no. 70 dated 25.02.2017 for Rs. 4,00,460/- . The AO observed that the aforesaid bills/vouchers submitted by assessee regarding sale of agricultural product are bogus bills as the dealership of the firm who have made purchase was already cancelled on 01.07.2002 as per Gujarat State tax and commercial department website. The assessee has provided TIN No. 240723010 of J B & Sons which has already been cancelled by the Gujarat State tax and commercial department since 01.07.2002 .The AO further observed that sign on purchase invoice was not matched with the sign of late Shri Mohanbhai Jivabhai Makwana Prop of JB & Sons. The AO further observed that agreement was made on Indian Non-judicial stamp paper which was not notarized. Confirmation submitted from J B & sons regarding sale of agricultural product was not genuine as the date is not mentioned on it. Further the A.O. observed that the cash deposited in the immediately preceding year was Rs. 8,79,500/- while cash deposited during the year under consideration was Rs. 21,60,500/- , thus, they were substantial increase in cash deposited in bank account to the tune of Rs.21,60,500/- during the year under consideration viz-a-viz Rs. 8,79,500/- deposited in the earlier year. The A.O. observed that the assessee has submitted copy of sale bills issued by J B & Sons , and in order to verify the genuineness

of business activities carried out by J B & Sons, the AO deputed Inspector from his office to enquire whether the above concern is operating from the address provided. The Inspector reported that no such entity in the name of J B & Sons is found Nr. Swastik Textile, Amraiwadi, Ahmedabad since last five years. The Inspector reported that he visited the residence of Shri Mohanbhai Jivabhai Makwana at Vaghaji Khimji Ni Chawl, Opp. Bhagyodya Estate gate , Ajod Dairy Road, Near Swastik Cross Road, Amraiwadi, Ahmedabad, and his Son Shri Pravin Mohanbhai Makwana was present who stated that he is not aware of the business activity of the J B & Sons at Near Swastik Textile Amaraiwadi, Ahmedabad . The Inspector showed copy of purchase/sale invoice Book No. 4, Bill No. 260 dated 20.01.2017 in the case of Misal Ashwinsinh Sarvaiya, son of Sarvaiya , and Shri Pravin M Makwana stated that said purchase invoice was neither given nor signed by his father, and the same is bogus invoices and not signed by his father. Thus the A.O. observed that it is established that J B & Sons did not carry out any business activity at the above address, and no business activity was carried out in the above proprietary concern by J B & Sons since last 5 years. Thus the A.O. observed that the Late Shri Mohanbhai Jivabhai Makwana, Prop. Of J B & Sons was living in Vaghaji Khimji ni Chawl and it is established that Mohanbhai was involved in issuing bogus invoices. The A.O. further observed that the

assessee has filed Income Tax Return for Asst. Year 2015-16, 2016-17 & 2017-18 after the announcement of demonetization i.e. 09.11.2016 to 30.11.2016. The details of filing of ITR's for assessment year 2015-16, 2016-17 and 2017-18 are reproduced by the AO in his assessment order at page 6 and 7. The A.O. further observed that the assessee has explained source of cash deposit of Rs. 20 lacs by way of agricultural income as under:

<i>F.Y.</i>	<i>Amount</i>	<i>Remarks</i>
<i>2016-17</i>	<i>4,89,500/-</i>	<i>Total Agriculture income during the year</i>
<i>2015-16</i>	<i>8,52,890/-</i>	<i>----</i>
<i>2014-15</i>	<i>8,18,110/-</i>	<i>Total agriculture income during the year</i>
<i>Total</i>	<i>21,60,500/-</i>	

The A.O. rejected the contention of the assessee and observed that the assessee has not furnished any cogent evidences in support of her claim. The AO observed that the cash book filed is merely an afterthought which has been prepared after the announcement of demonetization, and the cash book was rejected by the A.O. as non genuine. The AO observed that the cash deposit in the bank account were out of Specified Bank Notes(SBN) for which the assessee does not have any explanation for the sources of cash deposits. The AO made the addition of Rs. 20 lacs being cash deposited in the bank

account which was added by the AO to income of the assessee by invoking the provisions of Section 69A of the Act r.w.s. 115BBE of the Act, as the assessee could not explain and establish the sources and nature of cash deposit of Rs. 20,00,000/- deposited in her bank accounts.

4. Aggrieved, the assessee filed first appeal with ld. CIT(A) who dismissed the appeal of the assessee by holding that assessee has not brought up any strong points which the A.O. had chosen to overlook during the course of assessment proceedings , and the assessee has not refuted the charge that no business activity was carried out by the proprietary concerns J B & Sons for the last 5 years. The Ld. CIT(A) further observed that this itself lays doubt on the source of the cash deposits during the demonetization period , and the Ld. CIT(A) choose not to interfere with the assessment order passed by the A.O. , which was affirmed by Ld. CIT(A) by dismissing the appeal of the assessee.

5. Still aggrieved, the assessee has filed second appeal with Tribunal. The Ld. Senior Counsel for the assessee , Shri S N Divatia, Advocate appeared before the Bench, and submitted that addition of Rs.20 lacs was made by the A.O. by invoking provisions of Section 69A read with Section 115BBE of the Act, and the A.O. has not accepted the agricultural income

declared by the assessee. It was submitted that Rs. 10 lacs in cash was deposited on 23.11.2016 and Rs. 10 lacs was deposited on 03.12.2016 in cash with Bank of India. Our attention was drawn to the assessment order passed by the A.O. It was submitted that the assessee has sold agricultural produce to J B & Sons who is registered with the the Gujarat State tax and commercial department. It was submitted by ld. Senior Counsel for the assessee that the Ld. CIT(A) has passed non-speaking and non reasoned cryptic appellate order , and proper opportunity was not granted to the assessee by the Ld. CIT(A). The assessee has filed Paper Book containing 211 pages with Tribunal , which is placed on record in file. Our attention was drawn to the Paper Book and it was submitted that replies were filed before the AO during assessment proceedings, which are placed in PB. There was agreement with the tillers who were doing farming on the land of the assessee, and the assessee was entitled for 25% share in the produce(Page165-170/PB). All the expenses in connection with fertilizers, seeds, pesticides and other expenses were incurred by tillers. The produce was Mungfalli (ground nut) which was sold to J B & Sons. The documents in connection therewith are placed in paper book. The assessee has also filed her PAN Card which is placed in Paper Book at Page No. 169. The assessee has also filed TIN of J B & Sons which was downloaded from the website of Gujarat State tax and

commercial department , and it is showing that the said firm was registered on 11.11.1981 and the said dealer J B and Sons is shown to be an active dealer on 05.12.2016(page 171/PB), which was filed before Id. CIT(A) as additional evidence ,although the AO observed that the TIN of J B & Sons was cancelled w.e.f. 01.07.2002. The PAN Number of Shri Mohanbhai Jivabhai Makawana,Prop of J B & Sons is enclosed at Page 172/PB. The confirmation of account by J B & Sons in favour of assessee for purchase of agricultural produce from the assessee is enclosed at Page No. 173. The assessee has claimed that cash deposit in bank account is out of sale of agricultural produce of the year under consideration and of earlier years. Copies of cash book of assessee is also enclosed Page No. 175-176/PB, which is showing opening balance of Rs. 28,19,550/- as on 01.04.2016. The assessee has claimed that the deposit of Rs. 20 lacs in cash in the bank account was from the sale of agricultural produce. Our attention was drawn to Page No. 193 which is show cause notice dated 20.12.2019 issued by the AO, and it was submitted that the Inspector has shown Book No. 4 Bill No. 260 dated 20.01.2017 in the case of Misal Ashwinsinh Sarvaiya which was stated to be issued by Mr. Mohanbhai Jivabhai Makwana Prop of J B & Sons , which invoice was shown to Mr. Pravin M Makwana who is son of Mr. Mohanbhai Jivabhai Makwana. The said Mr. Mohanbhai

Jivabhai Makwana had expired. The said Mr. Parveen M Makwana had denied that his father never issued such bill .It was submitted by ld. Senior Counsel that this bill was firstly not raised in favour of the assessee and secondly the Inspector has shown this bill to Son of Shri Mohanbhai Jivabhai Makawana namely Mr. Parveen M Makwana, and not to Shri Mohanbhai Jivabhai Makwana , and hence inspector report is not reliable. It was also submitted that draft assessment order was not provided to the assessee by the AO. It was submitted that return of income was filed after demonetization. It was submitted that the assessee has requested for cross examination of Shri Parveen M Makwana before the Ld. CIT(A), but the same was not granted. The report of the Inspector was not given to the assessee nor statement of Mr. Pravin M Makwana was provided to the assessee. It was submitted that the assessee was not allowed cross examination of Shri Pravin M Makwana by the A.O. The ld. Counsel for the assessee submitted that submissions were made before ld. CIT(A), and our attention was drawn to page 14 to 24 of PB and Page 83-86 of the PB(but on perusal it was found that the said submissions at Page 83-86 were filed before NFAC, Delhi w.r.t. Late Meera Krtidev Chinubhai Estate(PAN AACAL0132B) for assessment year 2018-19(DIN of Notice :ITBA/NFAC/S/62/2022-23/1047040303(1)) and not in connection with the assessee with ld. CIT(A)). The Ld. Sr. D.R. submitted that the

assessee has filed return of income after announcement of demonetization. The cash book submitted by the assessee is an afterthought and was rightly rejected by the AO and Id. CIT(A). It was further submitted that no books of accounts were maintained by the assessee. The Id. Senior Counsel for the assessee in rebuttal drew our attention to the return of income filed by the assessee for Asset. Years 2014-15, 2015-16, 2016-17 and 2017-18 which are placed in the paper book (PB/Page 66-80), and it was submitted that the assessee is regularly declaring agricultural income in return of income filed with the department.

6. I have considered rival contentions and perused the material on record. I have observed that the assessee has filed the return of income on 14.02.2018 declaring total income of Rs. 8,41,690/-, and the assessee has also declared agricultural income of Rs.8,40,960/- and other exempt income of Rs. 32,301/-. The case of the assessee was selected by the Revenue for framing limited scrutiny under CASS , on the ground of cash deposits during demonetization . There was cash deposit of Rs. 20 lacs during demonetization period by the assessee in the Bank Account No. 200116710000240 maintained by the assessee with Bank of India, Panchvati, Ambawadi, Ellisbridge, Gujarat, on 23.11.2016(Rs. 10 lacs) and 03.12.2016(Rs. 10 lacs). The assessee sought to explain

the said cash deposits of Rs. 20 lacs out of earning from agricultural income from assessment years 2015-16 to 2017-18, which was claim to be deposited by the assessee with the bank account. The said explanation was rejected by the A.O. during assessment proceedings. I observed that the assessee has claimed that it has sold agricultural produce(mungfalli(ground nut)) to J B & Sons. The assessee has produced purchase invoice bills of J B & Sons(Prop. Mohanbhai Jivabhai Makwana) before the AO. The assessee has also claimed that she is owning agricultural land and the said land was given to tillers for farming. The said tillers were incurring expenses towards fertilizer, pesticides , seed and other farming expenses , and the assessee is getting 25% share in farming. No expenses towards farming were claimed to have been incurred by the assessee , as it is claimed that the tillers are making all expenditure towards agricultural activities carried out by them. The agricultural produce was claimed to have been sold to J B and Sons. The A.O. deputed Inspector to verify said concern , but the inspector reported that no such concern was existing at the said address and the statement of Son of Proprietor of the concern JB & Sons namely Mr. Parveen M Makwana (S/o Mr. Mohanbhai Jivabhai Makwana who was proprietor of J B & Sons ) was recorded by the Inspector who stated that no such concern J B & Sons is existing in that premises and the bill produced by the

Inspector before the Son of Proprietor Shri Pravin M Makawana was a bogus bill. It is stated by the assessee that the said Mr. Mohanbhai Jivabhai Makwana has expired. It is claimed by the assessee that the inspector report was never furnished to the assessee, nor statement of Mr. Parveen M Makwana was provided to the assessee by the AO as well by ld. CIT(A). The assessee was not allowed cross examination of Mr. Parveen M Makwana by authorities below. It is also observed that the inspector showed to Mr. Parveen M Makawan invoice no. 260 book no. 4 dated 20.01.2017 purported to be issued by J B and Sons in favour of Mr. Misal Ashwinsinh Sarvaiya, and not the invoices issued by J B & Sons in favour of the assessee . The assessee has also produced before ld. CIT(A) TIN No. issued by Gujarat State tax and commercial department which shows the TIN No. 24072301017 (the AO has wrongly stated TIN to be 240723010 in assessment order) issued in favour of Jivabhai Bavabhai and Sons to be active as on 05.12.2016 and date of registration is mentioned as 11.11.1981, while the AO has stated that the registration of J B & Sons was cancelled w.e.f. 01.07.2002. The ld. CIT(A) did not verify this additional evidence filed by the assessee nor any remand report was called from the AO u/r 46A of the 1962 Rules , before the appeal was adjudicated by ld. CIT(A) . No enquiry was made by both the authorities below namely ld. CIT(A) and the AO, with

the Gujarat State tax and commercial department, as to the registration of J B and Sons and the activities carried out by it and/or the returns filed by it. No inquiry was made by Id. CIT(A) and/or the AO with the Land Revenue authorities of the village/taluka etc about the status of the land owned by the assessee and/or agricultural activities claimed to be carried out by the assessee through tillers. The Id. CIT(A) passed a non speaking non reasoned cryptic order by simply dismissing the appeal of the assessee and upholding the assessment order passed by the AO , by holding that the assessee is not able to brought on record any strong points which the AO overlooked in the assessment proceedings, and that the assessee has not refuted the charge that no business activity was carried out by the proprietary concern by J B and Sons for the last 5 years. The appellate order passed by Id. CIT(A) is not sustainable in the eyes of law and is liable to be set aside as the same was passed by Id. CIT(A) without adjudicating the issues arising in the appeal on merits as well non adherence to principles of natural justice as neither report of inspector was made available to the assessee nor relied upon statement of Mr. Parveen M Makwana was made available to the assessee nor cross examination was allowed and also that no inquiries were made with Gujarat State tax and commercial department as well land revenue authorities at village/taluka/district. As per section 250(6), the CIT(A) has to state the points for

determination, decision thereof and reasoning thereof. But in the instant case, the CIT(A) has dismissed the appeal of the appeal of the assessee without deciding the issues arising in the appeal on merit. The order passed by the CIT(A) is non-speaking and non-reasoned cryptic order in which ld. CIT(A) has simply upheld the order of the Assessing Officer on the ground that the assessee is not able to bring strong points which the AO has chosen to overlook during assessment proceedings and that the assessee has not refuted the charge that no business activity was carried out by the concern J B & Sons for the last 5 year. The Assessee has produced TIN number which states that J B & Sons is an active dealer, while ld. AO has stated that the said concern registration was cancelled by Gujarat State Commercial and Tax department w.e.f 01.07.2002. Even Remand report was not called for by ld. CIT(A) from the AO on the additional evidences furnished for the first time by the assessee before ld. CIT(A). The ld. CIT(A) did not provide copy of inspector report as well copy of statement of Mr. Parveen M Makwana who is son of the proprietor of the concern Mr. Mohanbhai Jeevabhai Makwana. The cross examination of Mr. Parveen M Makwana was not allowed by authorities below. I have observed that there is a breach of principles of natural justice by authorities below. I have also observed that the there is a clear violation of provisions of section 250(6) of the Act on the part of the ld.

CIT(A) as the CIT(A) is obligated to pass appellate order by stating points for determination, his decision and reasoning thereof which has not been done by ld. CIT(A). I have observed that ld. CIT(A) passed the appellate order without adjudicating the issues arising in the appeal before ld. CIT(A) on merits as is required u/s 250(6). Thus, there is clearly breach of principles of natural justice by ld. CIT(A) as proper and adequate opportunity of heard was not granted by ld. CIT(A) to the assessee. The power of ld. CIT(A) are co-terminus with the power of Assessing Officer which even includes power of enhancement(Section 251(1)(a)). The CIT(A) has power to make such inquiries as he thinks fit and may also direct AO to make such enquiries and report to ld CIT(A), as is provided u/s 250(4), and to adjudicate issues arising in the appeal before him on merits in accordance with law. The CIT(A) could have issued summons u/s. 131 to the assessee or could have called for information from third parties u/s. 133(6). The ld. CIT(A) could have called for assessment records to verify the contentions of the assessee raised in ground of appeal/statement of facts filed before ld. CIT(A). The ld. CIT(A) did not commented on the additional evidences submitted by the assessee as to whether he is allowing its admission or not, nor he called for remand report u/r 46A of the Income-tax Rules, 1962. There are other powers vested with ld. CIT(A) as is provided under the 1961 Act. The ld. CIT(A) has not

rebutted the claim of the assessee, but dismissed the appeal of the assessee on the ground that the assessee has not brought up any strong points which the A.O. had chosen to overlook during the course of assessment proceedings , and the assessee has not refuted the charge that no business activity was carried out by the proprietary concerns J B & Sons for the last 5 years. The appellate order passed by ld. CIT(A) is subject to further appeal with ITAT u/s 253. The appellate order passed by ITAT is subject to further appeal before Hon'ble High Court u/s 260A. The judgment and order passed by Hon'ble High Court is also subject to challenge before Hon'ble Supreme Court. Thus, the appellate order passed by ld. CIT(A) is not a final order, as it is subject to challenge before higher appellate authority. Thus, Reasons which weighed in the minds of the adjudicating authority while adjudicating appeal on merits of the issue are cardinal as the higher appellate authority can then adjudicate appeal on the issues arising in appeal before them, based on decision and reasoning of ld. CIT(A) in deciding the issues. If the ld. CIT(A) simply dismissed the appeal merely holding that assessee has not brought up any strong points which the A.O. had chosen to overlook during the course of assessment proceedings , and the assessee has not refuted the charge that no business activity was carried out by the proprietary concerns J B & Sons for the last 5 years despite the fact that the assessee is able to bring

on record TIN which states that the said concern J B & Sons is an active dealer as on 05.12.2016 while AO held that the registration of J B & Sons was cancelled w.e.f. 01.04.2002 and further neither statement of inspector nor statement of Mr. Parveen Makwana was provided and also that no cross examination of Mr. Parveen M Makwana was allowed by authorities below, such order is not sustainable in the eyes of law keeping in view provisions of Section 250(6) and also that there is breach of principles of natural justice , and also higher appellate authorities will be deprived to see what weighed in the mind of the ld. CIT(A) while adjudicating appeal as it will be an order passed without reasoning on the issues on merits .The AO on its part did not provided copy of inspector report and statement of Mr. Parveen M Makwana to the assessee, nor cross examination of Mr. Parveen M Makwana was provided to the assessee. The AO stated in its assessment order that the TIN of J B & Sons was cancelled by the Gujarat State tax and commercial department effective from 01.07.2002 ( AO also wrongly mentioned TIN number as 240723010 instead of TIN 24072301017), but the assessee has produced TIN of J B & Sons as downloaded from the website of Gujarat State tax and commercial department which states that the said concern J B & Sons is an active dealer as on 05.12.2016. Under these facts and circumstances and fairness of both the parties, in the interest of justice, the

appellate order of CIT(A) as well assessment order passed by the AO are set aside , and the matter can go back to the file of ld. AO for framing fresh denovo assessment of the assessee in accordance with law after giving opportunity to the assessee . Thus, the matter is restored back to the file of ld. AO for framing denovo assessment in accordance with law. I clarify that I have not commented on the merits of the issues in the appeal. Thus, the appeal of the assessee is allowed for statistical purposes. I order accordingly.

7. In the result, the appeal of the assessee in ITA No.43/Ahd/2024 for assessment year 2017-18 is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax Appellate Tribunal Rules, 1963 at Ahmedabad on 12.07.2024.

**Sd/-**  
**(RAMIT KOCHAR)**  
**ACCOUNTANT MEMBER**

**Ahmedabad : Dated 12/07/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT

4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद