

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “A” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.381/Ahd/2024  
Assessment Year: 2017-18**

Arvind Ambalal Patel, C/o/ M.S. Chhajed & Co., Chartered Accountant, “Kamal Shanti”, Nr. Sardar Patel Statue, Ahmedabad – 380 014. <b>[PAN – ACYPP 9795 M]</b> (Appellant)	Vs.	The Income Tax Officer, Ward – 1(2)(1) (Old Ward-5(2)(2), Ahmedabad. (Respondent)
Assessee by	Shri M.S. Chhajed, AR	
Revenue by	Shri B.P. Srivastava, Sr. DR	
Date of Hearing	24.10.2024	
Date of Pronouncement	22.11.2024	

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

This appeal is filed by the Assessee against order dated 27.01.2024 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal :-

- “1 The order passed by Ld. CIT(A) is against law, equity and justice.
2. The Id. CIT(A) has erred in law and on facts in upholding addition made by the Ld. AO of Rs.73,41,500/- under Section 69A of the Act in regards to cash deposit in Bank account duly disclosed in books of accounts.
3. The Id. CIT(A) has erred in law and on facts in upholding the addition made under Section 68 of the Act of Rs.33,32,967/- for outstanding Sundry Creditors.”

3. The assessee filed return of income for the Assessment Year 2017-18 declaring total income of Rs.13,35,670/- on 24.06.2017. The case was selected for scrutiny and notice under Section 143(2) of the Income Tax Act, 1961 was issued on 09.08.2013 which was served upon the assessee. The case was selected for complete scrutiny for the reason "abnormal increase in cash deposits during demonetisation period as compared to pre-demonetisation period and large value receipt of repayment of loans other than through Banking channel" and other issues. Statutory notice under Section 143(2) as well as 142(1) read with Section 129 of the Act and show cause notice under Section 272A(1)(d) of the act also issued. The details were furnished on 18.11.2019 after issuing of two show cause notices. The Assessing Officer observed that during the year under consideration, the assessee's status is an individual and he is proprietor of M/s. Gold Roof. The assessee is doing business activities i.e. trading of Gold, Gold Jewellery, Silver, Silver Jewellery and precious stones etc. The Assessing Officer observed that the assessee has deposited cash amounting to Rs.73,41,500/- in Bank account with Axis Bank during the demonetisation period. The Assessing Officer, after verifying the cash books, found that the assessee has kept huge cash in hand before demonetisation period. During the course of assessment proceedings, the Assessing Officer, for verification of purchase, issued notice under Section 133(6) of the Act to various parties and called upon the specific details. Some of the parties have not furnished any details or not furnished quantitative details which can be across-verified for the sale as mentioned on page no.8 of the Assessment Order. After taking cognisance of the assessee's reply, the Assessing Officer made addition of Rs.73,41,500/- as unexplained money under Section 69A of the Act and taxed the same under Section 115BBE of the Act at the rate of 60%. The Assessing Officer also made addition on account of bogus Sundry Creditors under Section 68 of the Act amounting to Rs.33,32,967/-.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that as regards to ground no.1, the assessee has deposited the SBN of Rs.73,41,500/- during the demonetisation period which was out of cash sales and the same was shown as income by the assessee. The assessee

has given a total turnover of cash sales for the assessment year 2016-17 to 2018-19 as under :-

<b>Particulars</b>	<b>A.Y. 2016-17</b>	<b>A.Y. 2017-18</b>	<b>A.Y. 2018-19</b>
Total Turnover	13,80,97,843/-	16,03,91,666/-	16,45,62,291/-
Cash Sales	3,50,07,704/-	1,20,90,370/-	47,28,159/-
Credit Sales	10,30,90,139/-	14,83,01,296/-	15,98,34,132/-

5.1 The Ld. AR submitted that the assessee maintains regular books of account which are duly audited and the auditor has not pointed out any defect in sales including cash sales. The assessee has also given the summary of balance cash as on 08.11.2016 as under:-

<b>Particulars</b>	<b>Amount (in Rs.)</b>
Opening Cash Balance as on 01.04.2016	1,67,995/-
<b>Add:</b> Cash sales during the period 01.04.2016 to 08.11.2016	38,64,237/-
<b>Add:</b> Cash receipt during the period 01.04.2016 to 08.11.2016	56,42,887/-
<b>Add:</b> Cash withdrawal during the period 01.04.2016 to 08.11.2016	30,000/-
<b>Less:</b> Cash payment during the period 01.04.2016 to 08.11.2016	(9,40,262/-)
<b>Less:</b> Cash deposited during the period 01.04.2016 to 08.11.2016	(13,80,000/-)
<b>Cash Balance available as on 08.11.2016</b>	<b>73,84,857/-</b>

5.2 Thus, the Ld. AR submitted that the assessee was having cash balance to deposit during the period 09.11.2016 to 30.12.2016 in Bank account. The Ld. AR submitted that the assessee has given the following documents to the Assessing Officer:

- (1) Income Tax return
- (2) Audit Report
- (3) Bank Statement
- (4) Cash Book
- (5) Bank Book
- (6) Sales Register
- (7) Purchase Register
- (8) Stock Register
- (9) VAT Audit Report and Annual Return
- (10) Ledgers of Sundry Creditors and name, address and PAN of creditors
- (11) Copy of ITR Ack receipt and Contra Account of Krunal Enterprise
- (12) Copy of ITR Ack receipt and Contra Account of Jay Enterprise

- (13) Copy of ITR Ack receipt and Contra account of Oriana Diamonds
- (14) Sales Bill
- (15) GP Working
- (16) Bifurcation of cash and credit sales.

5.3 Thus, the Ld. AR submitted that the assessee has discharged all its onus regarding the cash deposits and the same are genuine and in fact the Assessing Officer has not disturbed the sales. The Ld. AR further submitted that when the receipt is sought to be taxed as income, the burden lies upon the Department to prove the same as held in the case of Parimisetti Seetharamamma vs. CIT, 57 ITR 532 (SC) and Parashuram Pottery Works Co. Ltd. vs. ITO, 106 ITR 1 (SC). The Ld. AR further submitted that once the income is shown in the return of income and books of account, the addition of the same amount would result in double taxation. The Ld. AR relied upon the decision of Hon'ble Gujarat High Court in case of CIT vs Vishal Exports Overseas Limited, Tax Appeal No.247 of 2009. The Ld. AR submitted that no addition for cash deposit during the demonetisation period can be done when the assessee has proved the sales and cash in hand in the respective years. The Ld. AR further submitted that once the purchases have been accepted, then the corresponding sales cannot be disturbed without giving any conclusive evidence/finding. The Ld. AR further submitted that the cash deposits are recorded in the books of account, therefore, Section 69A of the Act cannot be invoked.

6. The Ld. DR submitted that the CIT(A) has categorically mentioned that only sales cash books were submitted and the corresponding purchase and sales has not been submitted by the assessee. The Ld. DR submitted that the Assessing Officer has rightly made the addition in respect of cash deposits under Section 69A of the Act and relied upon the Assessment Order and the Order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. The assessee during the hearing has given the cash summary for assessment year 2016-17 and 2017-18 thereby giving the opening cash balance, cash sales excluding tax, tax as well as cash receipt from customers, cash purchases, cash withdrawals, cash deposit, cash expenses and the closing balance which are corresponds each other and the assessee has given all the details before the Assessing Officers as well as before the CIT(A). The Purchases and the sales of the

assessee at no point of time was disputed by the Assessing Officer and, therefore, the addition made by the Assessing Officer and confirmed by the CIT(A) is not justifiable. Thus, ground no.1 is allowed.

8. As relates to ground no.2, the assessee has submitted the details of Sundry Creditors as on 31.03.2017 as well as the liability outstanding at the year-end appearing in Balance Sheet. The assessee has given all the details of the creditors and the corresponding purchases made with these creditors. The Assessing Officer cannot ask the assessee to show those parties when the assessee has complied with all the required details and PAN of parties. Merely not responding to the notices issued under Section 133(6), the Assessing Officer cannot make addition under Section 68 of the Act. The Ld. AR submitted that the sales in question has not been doubted by the Assessing Officer qua the purchases made from these parties. Thus, the assessee cannot be penalised merely on the ground that the said parties failed to reply to the notices issued under Section 133(6) of the Act.

9. The Ld. DR submitted that the assessee has not filed the details such as confirmation from the parties as well as other details relating to the purchases and sales register. Thus, the Assessing Officer as well as the CIT(A) has rightly made the addition under Section 68 of the Act for outstanding Sundry Creditors.

10. We have heard both the parties and perused all the relevant material available on record. From the perusal of records, it can be seen that there was no dispute raised by the Assessing Officer related to the purchase and sales and the fact that the assessee has subsequently failed by these Sundry Creditors as mentioned during the hearing by the Ld. AR appears to be genuine. The assessee has also filed the confirmations which was not taken into account. Therefore, the addition does not sustain. Ground no.2 is allowed.

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

Order pronounced in the open Court on this 22<sup>nd</sup> November, 2024.

Sd/-

**(MAKARAND VASANT MAHADEOKAR)**  
Accountant Member

Sd/-

**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 22<sup>nd</sup> November, 2024**

**PBN/\***

Copies to: (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

**TRUE COPY**

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*