

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**ITA No.545/Ind/2024**  
**Assessment Year: 2017-18**

Sureshchand Lakhmichand Jain, 19, M/s. suresh Chand Adesh Kumar, Sironj Road, Gandhi Chowk Ganj Basoda	<b><u>बनाम</u></b> <b>/</b> <b>Vs.</b>	ITO, Vidisha
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: ADMPJ6555G</b>		
Assessee by	Shri Manish Dafaria, CA & AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	01.01.2025	
Date of Pronouncement	30.01.2025	

**आदेश / ORDER**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first appeal dated 29.05.2024 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 24.12.2019 passed by learned, ITO, Vidisha ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on following ground:

**Sureshchand Lakhmichand Jain**  
**ITA No. 545/Ind/2024 - AY 2017-18**

*"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in sustaining the addition u/s 69A of Rs.12,45,000/- to the total income of the assessee as done by Ld. AO while assessing the income u/s 143(3), without appreciating that the additions made by Ld. AO were arbitrary, based on surmises and conjectures and were without any legal basis."*

2. The background facts leading to present appeal are such that the assessee-individual, engaged in trading business of Kirana, Grains and Cattle feed in proprietorship concern named "M/s Suresh Chand Adesh Kumar Jain", filed return of AY 2017-18 declaring a total income of Rs. 13,19,320/-. The case of assessee was selected for scrutiny under CASS and notices u/s 143(2)/142(1). During assessment-proceeding, the AO found that the assessee made a total deposit of Rs. 21,45,000/- in Specified Bank Notes (SBNs) of denominations of Rs. 1,000/- and 500/- on various dates during demonetization period as under:

Date	Denomination of notes	Amount
15.11.2016	1000 X 500 500 X 800	Rs.9,00,000/- (SBN)
22.11.2016	1000 X 450 500 X 900	Rs.9,00,000/- (SBN)
08.12.2016	1000 X 40 500 X 160	Rs. 1,20,000/- (SBN)
18.12.2016	1000 X 7 500 X 236	Rs.1,85,000/- (SBN)
21.12.2016	1000 X 9 500 X 62	Rs.40,000/- (SBN)
26.12.2016	2000 X 300 100 X 900 50 X 100 10 X 500	Rs.7,00,000/-
30.12.2016	2000 X 300 100 X 1500 50 X 700 20 X 200 10 X 100	Rs.2,90,000/-

3. When the AO asked assessee to explain source of impugned deposits in SBNs, the assessee submitted cash-book showing opening balance of Rs. 19,51,281.08 as on 09.11.2016. On consideration of assessee's submission, the AO accepted only first deposit of Rs. 9,00,000/- made on 15.11.2016 as explained and rest of the deposits of Rs. 12,45,000/- were treated as unexplained. Accordingly, the AO made addition of Rs. 12,45,000/- u/s 69A read with section 115BBE of the act. Aggrieved, the assessee carried matter in first appeal but did not get any success. Now, the assessee has come before us in this appeal assailing the orders of lower authorities.

4. Ld. AR for assessee firstly carried us to the following para of assessment-order where the AO has made impugned addition:

*"6.1 From the above table it is observed that the assessee has deposited cash of Rs. 31,35,000/- in bank account during the demonetisation period. It is further observed that the assessee has repeatedly deposited an amount of Rs. 21,45,000/- in the form of Specified Bank Notes during the demonetisation period. During the course of assessment proceeding the assessee has submitted cash book, on verification of cash book it is found that the opening cash balance was Rs.19,51,281.08 on 09.11.2016. The assessee has deposited Rs.9,00,000/- on 15.11.2016 in the form of SBN. The assessee was supposed to deposit Specified Bank Notes in one time but the assessee has deposited SBN repeatedly in the same bank account no. 3227002100042801 maintained with PNB Ganj Basoda. Out of Rs. 21,45,000/- cash deposit of Rs. 9,00,000/- on 15.11.2016 may be presumed that the assessee deposited the same amount out of cash balance on 09.11.2016. The other deposit i.e. Rs. 12,45,000/- (SBN) as mentioned in above table is remained unexplained. Therefore, I am of the opinion that assessee has not offered satisfactory explanation for deposit of Rs. 12,45,000/- (21,45,000-9,00,000) in the bank account in the form of SBN as, therefore the same is treated as unexplained income of the assessee and added back to total income of the assessee under section 69A of Income Tax Act, 1961 for F.Y. 2016-17 relevant to A.Y 2017-18. The unexplained income amounting to Rs. 12,45,000/- is taxed u/s 115 BBE of the Act at the rate of 60%. Further, penalty proceedings u/s 271 AAC of the Act in respect of unexplained income is being initiated."*

5. Referring to above, Ld. AR submitted that the AO has himself acknowledged the cash-book filed by assessee during the course of assessment-proceeding and also made a clear noting that on verification of cash-book, there was an opening balance of Rs. 19,51,281.08 on 09.11.2016. However, in subsequent lines, the AO has noted a self-made adverse observation that the assessee was supposed to deposit SBNs in one time and not repeatedly. Only on this footing, the AO has presumed Rs. 9,00,000/- deposited in the first instance on 15.11.2016 only as explained and treated subsequent deposits as unexplained. Ld. AR submitted that the demonetization period started from 09.11.2016 but ended on 31.12.2016 and the citizens were allowed to make deposits in SBNs during this entire period and there was no mandate to make deposit only once or in one go as stated by AO. Ld. AR submitted that the AO has neither rejected the opening balance shown by assessee's cash-book nor cited any basis to form a view that only one time deposit could have been made during demonetisation. Ld. AR submitted that in such a situation, the action of AO in accepting first deposit of Rs. 9,00,000/- and rejecting all subsequent deposits is grossly illegal and cannot be sustained. Therefore, the entire deposits of Rs. 21,45,000/- made by assessee must be accepted as coming from explained sources and the addition made by AO must be deleted. Ld. AR also raised a legal contention that once the impugned deposits are found recorded in cash-book of assessee, the AO cannot apply section 69A which is applicable only when money, etc. is not found recorded in books of assessee.

6. Per contra, Ld. DR for revenue strongly opposed the submissions of Ld. AR. He firstly submitted that the assessee was having opening balance of Rs. 19,51,281.08 on 09.11.2016 and the assessee was prohibited from making collection of SBNs after 09.11.2016. Therefore, when the opening balance was itself Rs. 19,51,281.08, how could assessee make deposits of SBNs of Rs. 21,45,000/- in bank a/c? Ld. DR did not stop here. He went ahead to submit that even it is also unrealistic to assume that the opening balance of Rs. 19,51,281.09 was 100% in the form of SBNs of Rs. 500/- or Rs. 1,000/-. He submitted that the assessee has not filed any detail as to the break-up of currency notes of Rs. 19,51,281.09 claimed to have been held on 09.11.2016. Ld. DR further submitted that the assessee made first deposit of Rs. 9,00,000/- on 15.11.2016 and last deposit of Rs. 40,000/- on 21.12.2016; thus there was a time gap of about 36 days and there is no explanation from assessee's side to explain this gap. Therefore, Ld. DR contended, taking into account all these aspects, the relief of Rs. 9,00,000/- already given by AO is reasonable and no further relief can be given to assessee.

7. We have considered rival contentions of both sides and perused the orders of lower-authorities as well as the material held on record to which our attention has been drawn. The issue involved in present case is the source of deposits made by assessee in bank a/cs during demonetization period. There are certain undisputed figures accepted by parties, namely (i) the audited cash-book of assessee showed opening balance of Rs.

19,51,281.08 as on 09.11.2016 at the start of demonetization and (ii) the deposits made by assessee in SBNs during demonetization were of Rs. 21,45,000/-. It is not a case of assessee that he was allowed to make collection in SBNs or he in fact made collections in SBNs during demonetization period. Thus, in such a situation we agree with the contention raised by Ld. DR for revenue that when the assessee had cash balance of Rs. 19,51,281.08 only prior to declaration of demonetisation, how could he deposit SBNs worth Rs. 21,45,000/- in bank a/c? When this point was put to Ld. AR for reply, Ld. AR submitted that the difference/shortage is just Rs. 1,93,719/- and as per CBDT Instructions issued at that time, deposit upto Rs. 2,40,000/- could have been made from household savings. When we raised next question to Ld. AR that when the cash outflow of Rs. 21,45,000/- stands already recorded in assessee's Cash-Book, how could the source of household savings being advanced now be accepted? In reply, Ld. AR could not give satisfactory explanation. So far as the point raised by Ld. DR that the opening cash of Rs. 19,51,281.08 as on 09.11.2016 cannot consist of SBNs in toto, we asked Ld. DR as to how to ascertain the component of SBNs but the Ld. DR could not point out any basis or means to arrive at such a fact. Therefore, we are left with a situation where only a cut-short method can be applied to close the dispute between parties. Admittedly, the SBNs would be in the demonetization of Rs. 1,000/- or Rs. 500/-. Therefore, out of opening balance of Rs. 19,51,281.08 which is coming from Cash-Book as verified by AO, only a cash balance of Rs. 19,51,000/- can be in the multiple of Rs. 1,000/- or Rs. 500/-. Hence, we accept that the cash balance of Rs. 19,51,000/- only can be accepted as source for making deposit of SBNs of Rs. 21,45,000/- on different dates and

the difference/shortage of Rs. 1,94,000/- [Rs. 21,45,000 (-) Rs. 19,51,000] remains unexplained. The view taken by AO that the assessee was supposed to make only one time deposit in SBNs and similarly the argument taken by Ld. DR that there is a gap of about 36 days in first deposit and last deposit are mere apprehensions and do not have any acceptable basis; hence they are rejected. In that view of matter, we direct the AO to modify assessment-order so as to keep the addition of Rs. 1,94,000/- only and delete excessive addition of Rs. 10,51,000/-. The assessee accordingly succeeds partly in this appeal.

**8. Resultantly, this appeal is allowed partly.**

Order pronounced by putting on notice board as per Rule 34 of ITAT Rules, 1963 on 30/01/2025
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Sd/-

(DINESH MOHAN SINHA)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक /Dated : 30/01/2025

Patel/Sr. PS

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

By order

Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore