

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. / ITA No.24/Agr/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

DCIT - Central Circle Room No. 104, 1st Floor Aaykar Bhawan, Sanjay Place Agra-282002.	बनाम/ Vs.	Rajendra Kumar Aggarwal 219, Daru Bhondela, Jhansi 284002.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABTPA-1493-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Anurag Sinha (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Sukesh Kumar Jain – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing	:	10-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	28-03-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2017-18 arises out of an order of learned Commissioner of Income Tax (Appeals), Kanpur [CIT(A)] dated 14-11-2022 in the matter of an assessment framed by Ld. DCIT, Central Circle (AO) u/s 143(3) r.w.s. 147 of the Act on 31-03-2022. The sole grievance of the revenue is deletion of addition of Rs.810 Lacs as made by Ld. AO in the assessment order.

2. The Ld. CIT-DR advanced arguments and supported the findings of Ld. AO whereas Ld. AR also advanced arguments and supported the findings of Ld. CIT(A) in the impugned order. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under. The assessee being resident individual is stated to be engaged in trading of gold / silver bars and jewellery in proprietorship concern namely M/s Jewar Kothi. The assessee filed its return of income declaring income of Rs.43.43 Lacs which was scrutinized u/s 143(3). However, the case was reopened and another assessment was framed which is in further challenge before us.

Assessment Proceedings

3. The case of the assessee was reopened to verify the source of cash deposits during demonetization period. The assessee submitted that the cash deposits were sourced out of sale proceeds of business. The assessee made cash sales of Rs.118.78 Crores in this year. In support of source of cash deposits, the assessee, inter-alia, furnished month-wise cash sales for this year as well as cash sales achieved in corresponding months of earlier year. Upon perusal of the data as furnished by the assessee, Ld. AO alleged that the sales figures for the month of October and November, 2016 were inflated after the announcement of demonetization on 08-11-2016 to create source of cash deposits. To support the same, Ld. AO tabulated month wise sales data on Page Nos.12 & 13 of the assessment order. Though the assessee submitted stock details, purchase and sales summary etc. as required, Ld. AO rejected the explanation of the assessee and

continued to allege that the assessee made bogus sales during demonetization period. Accordingly, the cash deposit in Specified Bank Notes (SBNs) for Rs.810 Lacs during demonetization period was added u/s 68 r.w.s. 115BBE.

Appellate Proceedings

3.1 During appellate proceedings, the assessee assailed impugned additions by way of elaborate written submissions. It was noted that the assessee was a proprietor in M/s Jewar Kothi and acted as dealer of Gold / Silver bars and jewellery. It was duly registered under VAT / GST laws. The assessee maintained regular books of accounts including quantitative records of trading items. The books were duly audited u/s 44AB. The assessee, inter-alia, furnished day-wise cash book, sales ledger, stock register, purchase and sales details etc. During entire year, the assessee deposited cash of Rs.71.53 Crores out of which Rs.8.10 Crores was deposited in SBNs during demonetization period. The turnover of the proprietorship concern was stated to be Rs.527.73 Crores. The assessee also tabulated sales made during October & November in FYs 2014-15 and 2015-16 and 2016-17 to demonstrate that there was no abnormal sale in this year. The assessee also furnished cash book to demonstrate that it had sufficient cash balance in the books to make impugned deposits.

3.2 The Ld. CIT(A) concurred that there was panic situation at the time of announcement of demonetization and the people rushed to buy precious items to dispose-off SBNs. The assessee had duly purchased the stock. The transactions of purchase and sales in

quantity as well as value were duly recorded in the books of accounts and the books were duly audited as required under law. The books were produced before Ld. AO and no discrepancy was found therein. Considering all these facts and by applying the ration of various judicial decisions, the impugned addition was deleted against which the revenue is in further appeal before us.

Our findings and Adjudication

4. Form the above stated facts, the undisputed position that emerges is that the assessee is engaged in trading or precious items under proprietorship concern which is duly registered under VAT / GST. The assessee has reflected huge turnover of Rs.527.73 Crores which also include substantial cash sales. The assessee has deposited cash of Rs.71.53 Crores in its bank accounts during the entire year out of which only Rs.8.10 Crores have been deposited during demonetization period, the source of which has been doubted by Ld. AO. However, it could be seen that the assessee has maintained proper books of account including stock details. The cash deposits are duly recorded in the cash book. The books of accounts have not been rejected and no defect has been found in the documents as furnished by the assessee. The fact would remain that the cash has been generated out of business activities only since the assessee do not have any other source of income. The sales turnover has duly been accepted and the impugned addition would result into double taxation which is impermissible. Pertinently, no defect has been pointed out in the books of accounts. The assessee has

furnished cash book which would show that the aforesaid deposits have been sourced out of business receipts only. Under these circumstances, the conclusion of Ld. CIT(A) could not be faulted with. However, considering the peculiar facts of the case, the leakage of revenue in such huge cash deposits could not be ruled out. To plug the same, we are of the considered opinion that a lump sum addition of Rs.20 Lacs would meet the grievance of the revenue. Therefore, we sustain the addition of Rs.20 Lacs which would be considered as normal business income only. No other ground has been urged in the appeal.

5. The appeal stand partly allowed in terms of our above order.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

(SATBEER SINGH GODARA)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28-03-2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA