

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos. 21/PAN/2024 & S A.5/PAN/2025
(A.Y. 2017-18)

Santosh Devdas Kalghatagi, 287/6,1 st floor,Saibuilding, III Cross, Shashtri Nagar, Shahapur, Belgaum-590003, Karnataka.	Vs .	I.T.O Ward-1, Civil Hospital Road, Belgaum-590001. Karnataka. .
PAN .No. ADMPK2551R		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri.Pramod Vaidhya.AR
Revenue by	Shri.Vimalrajperiyagounden..Sr.DR

सुनवाई की तारीख/Date of Hearing	27.03.2025
घोषणा की तारीख/Date of Pronouncement	01.04.2025

ORDER

PER PAVAN KUMAR GADALE, JM:

The appeal is filed by the assessee against the order of the NFAC Delhi/CIT(A) passed u/sec 143(3)r.w.s147 and u/sec 250 of the Act. The assessee has raised the grounds of appeal challenging the order of the CIT(A) sustaining the additions made by the Assessing Officer.

2. The brief facts of the case are that, the assessee is engaged in the business of jewellery and notice u/sec148 of the Act was issued. Further in compliance to notice u/sec142(1) of the Act, the assessee has filed the return of

income on 12.01.2018 for the A.Y.2017-18 disclosing a total income of Rs.12,82,110/-. The Assessing Officer (AO) based on the information from ITBA data, found that the assessee has made cash deposits in the bank accounts during the demonetization period and the A.O has issued notice u/sec143(2) and u/sec 142(1) of the Act and the assessee has submitted the details and information. Whereas the A.O found that the assessee has made cash deposits aggregating to Rs.21,00,500/- in the bank accounts in the F.Y.2016-17 and explanations were called to substantiate the deposits and there was no proper compliance and further the assessing officer has dealt on the jewellery business transactions and VAT returns in respect of sales and estimated profit@8% of the turnover. Finally the A.O was not satisfied with the explanations and made addition (i) income as per the provisions of section44AD of the Act of Rs.18,44,198/- and (ii) cash deposits u/sec69A of the Act of Rs19,50,100/-and assessed the total income of Rs.37,95,200/- and passed the order u/sec 143(3) r.w.s147 of the Act dated 29.09.2021.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts, findings of the AO and submissions of the assessee but has confirmed the action of the Assessing officer and dismissed the assessee

appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the A.O overlooking the facts and submissions of the assessee in the proceedings. Further the Ld.AR submitted that the assessee has a good case on merits and has filed an application for admission of the additional evidence under Rule 29 of ITAT rules. Per contra, the Ld. DR submitted that the evidences were not examined by the lower authorities and the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue that the CIT(A) has erred in confirming the addition made by the A.O. u/sec44AD and u/sec69A of the Act as the transactions are not supported with the documentary evidences. The Ld.AR emphasized that the assessee has submitted the details as called for by the authorities. The assessee is filling the application for admission of additional evidences under Rule 29 of ITAT rules with the separate statements showing RD and URD purchases during F.Y.2016-17, date wise purchase statement and sample copies of sales invoices which could not be submitted before the lower authorities. Further the evidences play a important role in decision making in the adjudicating proceedings. Therefore considering the facts,

circumstances and additional evidences, the assessee should not suffer for non filing of material information, as the evidences play a vital role in decision making and we admit the additional evidence. Accordingly, to meet the ends of justice, we restore the disputed issues along with the additional evidence to the file of the CIT(A) to verify and adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal. And, we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

7. S.A.No.5/PAN/2025(A,Y,2017-18).

The Ld.AR submitted that the assessee has paid tax demand of Rs.7,71,630/- which is more than 20 % of total tax demand of Rs.28,58,072/- and the same is not disputed by the revenue. Further the assessing officer has issued notice u/sec226(3) of the Act dated 26-02-2025 on the three bank accounts of the assessee maintained with (i) Daivadnya sahakara bank Niyamit shahapur Belagavi (ii)HDFC Bank, shahapur Belagavi and (iii)The Sankeshwar Souhard credit sahakari Ltd,kadolkar Galli,Belagavi. We considering the facts, circumstances and submissions of the both the parties are of the view that in the quantam appeal, the assessee has filed the additional evidence and

was admitted and restore to the file of the CIT(A) to verify and adjudicate on merits dealt in the above Paragraphs 5&6. Further the assessee has deposited more than 20% of total tax demand, which is not disputed by the Ld.DR. Hence, we direct the assessing officer to withdraw attachment under section 226(3) of the act on the above three bank accounts of the assessee and further direct not to take any coercive action for recovery of balance tax demand and we order accordingly.

Order pronounced in the open court on 01.04.2025.

Sd/-

(GD PADMAHSHALI)
ACCOUNTANT MEMBER

Panaji Dated: 01/04/2025

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,
(Asstt. Registrar)ITAT,
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			