

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(HYBRID COURT)**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No. 256/Asr/2024**

Assessment Year: 2017-18

M/s Ramson's Sweets  
Main Road, Near Bus Stand,  
Nawanshahr, SBS Nagar  
144514, Punjab

Vs.

Income Tax Officer  
Ward, Nawanshahr

[PAN: AAEFR6778C]

**(Appellant)**

**(Respondent)**

**Stay Application No. 4/Asr/2025**

(in I.T.A. No. 256/Asr/2024)

Assessment Year: 2017-18

M/s Ramson's Sweets  
Main Road, Near Bus Stand,  
Nawanshahr, SBS Nagar  
144514, Punjab

Vs.

Income Tax Officer  
Ward, Nawanshahr

[PAN: AAEFR6778C]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. Surinder Mahajan, C.A.  
Respondent by : Sh. Manpreet Singh Duggal, Sr. D. R.  
Date of Hearing : 20.03.2025  
Date of Pronouncement : 11.04.2025

**ORDER****Per Krinwant Sahay, A.M.:**

Appeal in this case has been filed against the order dated 28.03.2024 passed by the ld. CIT(A) NFAC, Delhi for Assessment Year: 2017-18.

2. Grounds of appeal taken by the assessee are as under:

- “1. That on the facts & circumstances of the case, order passed u/s 143(3) of the Act is illegal, bad in law and void ab-initio since notice u/s 143(2) of the Act dated 14.08.2018 has been issued by the ACIT, Circle-2 Jalandhar who is not the jurisdictional A.O. and no notice u/s 143(2) of the Act has ever been issued by the jurisdictional A.O. i.e., ITO, Ward, Nawanshahr.
2. That on the facts & circumstances of the case, Ld. CIT(A). National Faceless Appeal Centre (NFAC), Delhi, has grossly erred in confirming addition of Rs. 97,55,000/- as alleged unexplained cash deposits in the bank accounts. Addition confirmed is illegal and bad in law.
3. That on the facts and circumstances of the case, addition of Rs. 97,55,000/- made by invoking provisions of section 68 of the Act is illegal and bad in law since provisions of section 68 of the Act are attracted where any sum is found credited in the books of an assessee maintained for any previous year whereas cash deposited in the bank accounts is out of cash available in the imprest account duly reflected in the books of accounts. Addition confirmed is illegal and bad in law.

4. *That on the facts & circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 97,55,000/- u/s 68 of the Act chargeable to tax u/s 115BBE of the Act since provisions of amended section 115BBE of the Act are attracted w.e.f. A.Y. 2018-19 and are not applicable to A.Y. 2017-18.*
5. *That on facts and circumstances of the case, order passed by the Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, is illegal and bad in law and has been passed without considering the submissions of the assessee.*
6. *That order u/s 143(3) of the Act has been passed in an arbitrary manner on assumptions & presumptions without affording adequate opportunity to the assessee and in violation of principles of natural justice and therefore may kindly be quashed.*
7. *That the Appellant requests for leave to add or amend the grounds of appeal before the appeal is heard or disposed off.”*

3. At the very outset, the ld. counsel of the assessee has brought it on record that the appellate order passed by the ld. CIT(A) is an ex-parte order as he has not given any findings on any issue on merits. We find that in the appellate order, the ld. CIT(A) has given his findings as under:

*“6.2 At the appellate stage, the appellant has not furnished any written submission support of his claim. No arguments have been advanced by him in his statement of facts and grounds of appeal to rebut the applicability of the deeming provisions by the AO. The*

*appellant has chosen not to furnish a cogent explanation of the cash deposits along with reliable evidence in support of his contentions and grounds of appeal despite ample opportunity and time allowed during the appellate proceedings. In such circumstances, the undersigned is left with no alternative but to presume that the appellant has no further submissions in support of his averments made in the grounds of appeal. Accordingly, the appeal is being decided keeping in view the facts brought on record by the AO in the assessment order and by the appellant in the grounds of appeal and statement of facts.”*

4. From the order of the ld. CIT(A), it is clear that the assessee has not furnished details before the ld. CIT(A) and the ld. CIT(A) has also not passed a speaking order on the basis of material available on record. Therefore, the counsel requested that the matter should be remanded back to the file of the ld. CIT(A) for fresh adjudication.

5. The ld. DR has no objection.

6. Accordingly, the case is remanded back to the file of the ld. CIT(A) to decide and adjudicate different grounds on appeal raised by the assessee in Form 35. The assessee is also directed to co-operate with the department to get the case adjudicated as per the requirements of law.

7. A Stay Application No. 4/Amritsar/2025 has also been filed in this case, the counsel of the assessee has brought on record through his written submission as under:

- “1. That assessee filed its return of income for A.Y. 2017-18 on 31.10.2017 declaring income of Rs. 26,26,840/- with Income Tax Officer, Ward Nawanshahr.
2. That assessment proceedings were initiated by issue of notice u/s 143(2) of the Act by ACIT, Circle-2, Jalandhar vide notice dated 14.08.2018.
3. That notices u/s 142(1) of the Act alongwith questionnaire dated 09.04.2019, 07.10.2019, 12.10.2019, 14.10.2019 and 25.11.2019 were issued by Assessing Officer, Nawanshahr and show cause notice dated 25.11.2019 was issued by Assessing Officer, Nawanshahr to the assessee, which were duly complied with. No notice u/s 143(2) of the Act was ever issued by the Assessing Officer, Nawanshahr being jurisdictional Assessing Officer who has framed assessment u/s 143(3) of the Act. Submissions filed in compliance to notice u/s 142(1) of the Act have been rejected on assumptions and presumptions without any material on records and assessment was framed vide order dated 04.12.2019 at income of Rs. 1,23,81,840/- by making addition of Rs. 97,55,000/- u/s 68 of the Act and demand of Rs. 1,00,08,396/- was created.
4. That assessee deposited Rs. 23,15,805/- being 20% of the demand in consonance with Board of Direct Taxes instruction no. 1914 dated 29.02.2016 and requested for stay of balance demand. Copy of form 26AS is enclosed herewith as Annexure A.
5. That assessee filed appeal before Ld. CIT(A) on 27.12.2019 and Ld. CIT(A) vide his order dated 28.03.2024 dismissed appeal filed by the

assessee. Appeal has been filed before the Honourable Bench on 06.05.2024.

6. That before the Honble ITAT Amritsar Bench, Amritsar, assessee has challenged addition made both on legality and merits. Assessee has prima-facie a sound case on merits as well legality. On legality
  - a) Assessee has challenged assessment framed by Assessing Officer Ward Nawanshar since jurisdiction over assessee in view of monetary threshold limit laid down vide CBDT Instruction No. 1/2011[F.No.187/12/2010-IT(A-D)) dated 31.01.2011 read together with instruction no. 6/2011 dated 08.04.2011 vested with ACIT Jalandhar.
  - b) No notice u/s 143(2) of the Act has ever been issued by Assessing Officer who framed the assessment.On merits assessee has challenged addition made at Rs. 97,55,000/- on various grounds.
7. That Assessing Officer had called the assessee for deposit of balance outstanding demand.
8. That assessee is passing through financial crisis and does not have bank balance or liquidity to make the payment of tax in dispute and if the department proceeds further to recover the tax in dispute, great hardship will be caused to the assessee and the business of the assessee may be ruined.
9. That assessee, therefore, prays:
  - a) That the recovery proceedings initiated against the petitioner may be stayed till the disposal of appeal by the Hon'ble Tribunal.
  - b) The Deputy Commissioner of Income Tax, or the Commissioner of Income Tax or their subordinate or their successors may be restrained from taking any action as regards recovery of tax, interest and penalty levied or leviable for the relevant assessment year.

*c) Any other relief which the Hon'ble members may deem fit and proper in the nature and circumstances of the case may be granted.”*

8. Since, we have already remanded this case back to the file of the Id. CIT(A) therefore, the issue of STAY has become infructuous.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 11.04.2025

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

**Sd/-**  
**(Krinwant Sahay)**  
**Accountant Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1)The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order