

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.849/SRT/2024**

**Assessment Year: (2017-18)**

**(Physical Hearing)**

The ITO, Ward - 3(2)(9). Surat	<b>Vs.</b>	Lalit Vanarsibhai Patel, 3/4, Navdurga Nagar Society, Nr. Chowpati Main Road, Nana Varachha - 395006
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: CELPP8445K</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Rasesh Shah, CA
<b>Respondent by</b>	Shri Mukesh Jain, Sr. DR
<b>Date of Hearing</b>	04/02/2025
<b>Date of Pronouncement</b>	30/04/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 13.06.2024 by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short, 'CIT(A)'] for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the revenue are as under:

*"1. Whether on the facts and circumstances and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,69,10,000/- made on account of unexplained cash credits within the meaning of section 69A of the Act as the assessee not produced any cogent evidences to prove that the deposits made in the Bank accounts represent the business receipts.*

*2. Whether on the facts and circumstances of the case and in, the learned CIT(A) has erred in deleting the addition of the unexplained cash deposit made by the Assessing officer u/s. 69A of the Act even though as per the provisions*

*of the said section onus to explain the sources of the such cash deposited in the bank accounts are on the assessee.*

*3. Whether on the facts and circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made of Rs.1,03,11,121/- by the AO u/s 68 of the Act on account of failure on the part of the assessee to establish the sources of the repayment of unsecured loans during the year under reference, however, he has not considered that the assessee could not substantiate the sources of the re-payment of said unsecured loan along with supporting evidences at the satisfaction of the AO.*

*4. On the basis of the facts and circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*

*5. It is therefore prayed that the order of Ld. CIT(A) may kindly be set aside that of the Assessing Officer be restored.*

*6. The appellant craves leave to add, alter, amend and/or withdraw any ground of appeal either before or during the course of hearing of the appeal.”*

3. The facts of the case are that the assessee filed his return of income on 06.09.2017 for AY.2017-18, declaring total income of Rs.10,43,560/-. The assessee is a retail dealer of TVS two-wheeler vehicles and had derived income from the said business during the year under consideration. The case was selected for complete scrutiny under CASS. Various notices were served upon the assessee. The Assessing Officer (in short, 'AO') also issued a show cause notice dated 17.12.2019 and asked assessee as to why additions of cash deposit of Rs.1,69,10,000/- during demonetization period and repayment of loan of Rs.1,03,11,221/- should not be made to the total income for the subject year. The assessee filed reply dated 20.12.2019, which has not been discussed in the assessment order. The AO has, however, concluded that assessee failed to submit details of cash sales including purchase register, ledger of purchases etc. Therefore, source of cash deposit is not explained and

hence, he added Rs.1,69,10,000/- u/s 69A of the Act. As regards the addition of Rs.1,03,11,221/- towards repayment of unsecured loan to various parties, the assessee had submitted that the source was out of credits received against sales. However, the AO added repayment of unsecured loans of Rs.1,03,11,221/- to various parties by observing that source of the repayment has not been explained with documentary evidence. In the result, both the above additions were made and total income was determined at Rs.2,82,64,781/- as against returned income of Rs.10,43,560/-.

4. Aggrieved by the order of AO, the assessee filed appeal before CIT(A). The assessee filed written submission and various details before the CIT(A). After considering the facts of the case, the CIT(A) observed that the AO made addition of Rs.1,69,10,000/- as unexplained money u/s 69A and Rs.1,03,11,221/- u/s 68 of the Act by stating that the assessee had failed to submit certain details as brought out in the assessment order. The appellant submitted all the documents/evidence before CIT(A), which were submitted before the AO. The CIT(A) found that the appellant had replied to all the notices issued by AO and had enclosed necessary documents including purchase register/ledger of purchases. Regarding the addition made on account of cash deposits made during the demonetisation, the appellant submitted purchase register/ledger of purchases from sale of two wheelers purchased from TVS Motors Ltd., which was sold to customers. Regarding the addition made on account of repayment of unsecured loan, the CIT(A) found

that the appellant had made his submission and filed various details in support of the factum of loan repayment. The audit report filed u/s 44AB of the Act shows all the repayment were made through proper banking channels. The appellant submitted copies of contra-confirmation of parties, ITRs, bank statements and PAN details. Further, the CIT(A) observed that the appellant's explanation for the source of cash deposit being out of cash sale of two wheelers cannot be denied and the explanation of repayment of loan submitted before AO are acceptable. The CIT(A) concluded that the findings of the AO is incorrect, and the additions were made by AO on assumption basis. The AO has not gone through the submissions and details made by the AO during assessment proceedings. Therefore, the CIT(A) directed AO to delete the addition made of Rs.1,69,10,000/- on account of cash deposits and Rs.1,03,11,221/- on account of repayment of loan. Hence, the CIT(A) has allowed the appeal of the appellant.

5. Aggrieved by the order of the CIT(A), the revenue filed appeal before the Tribunal. The learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of the AO. He submitted that details of the purchasers have not been given by the appellant to the AO. The assessee has not discharged the onus cast upon him. He requested to sustain the addition made by the AO, which were wrongly deleted by the CIT(A).

6. On the other hand, the learned Authorized Representative (Id. AR) of the assessee has filed paper book including the submissions made before the

AO and the CIT(A). He submitted that all the details were filed before the AO, who has completely ignored the submissions and simply added the impugned amounts of Rs.1,69,10,000/- and Rs.1,03,11,221/-, being cash deposit in various bank accounts and repayment of unsecured loans respectively. He submitted that the appellant had mentioned all details in the statement of facts before the CIT(A). No further query was raised after reply of the assessee along with various details. The assessee has properly maintained the books of account, which have been duly audited u/s 44AB of the Act. All cash deposits were out of the sale of two whellers made during the year, which is duly recorded in the books of account. The repayment of loan was also through proper banking channel and assessee had enclosed copies of confirmation of account from the parties, their ITRs, PANs and bank statements. In view of the detailed submission along with supporting evidences, the CIT(A) has rightly deleted the addition. He, therefore, requested that the order of CIT(A) may be upheld.

7. We have heard both the parties and perused the materials available on record. The Id. AR has filed the Statement of Facts and submissions and details filed before the AO and the CIT(A). In the submission before CIT(A), the appellant had also relied on various decisions. From the details filed by the Id. AR, it is seen that the assessee had filed reply dated 20.12.2019 to the AO giving his explanation regarding the source of cash deposits including opening cash in hand, cash sales, cash deposits, cash withdrawals and closing cash in

hand. It is seen therefrom that assessee had opening cash in hand of Rs.1,67,79,584/- as on 09.11.2016 out of which he had deposited Rs.1,62,30,000/- in the bank account. The assessee had also submitted that cash sale from 01.04.2016 to 08.11.2016 was Rs.6,80,31,190/-, out of which the sale was Rs.2,41,19,867/- from 01.10.2016 to 08.11.2016 (Diwali season). The appellant explained that source of cash deposit during demonetization period was out of opening cash balance of Rs.1,67,79,584/- as on 09.11.2016 and cash sales of Rs.22,83,288/- during the period from 09.11.2016 to 30.12.2016. Regarding the repayment of unsecured loan of Rs.1,03,11,221/-, it was submitted that the said repayment was out of business income as well as secured loan availed from the bank. The appellant had enclosed contra-confirmation of account, ITR, computation of income and bank statement of all unsecured parties to whom repayment of loans was made by the appellant. Before the CIT(A) also, the appellant had filed various details which are mentioned in the copy of 'e-Proceedings Response Acknowledgement' of Income-tax Department before the CIT(A). After considering the details submitted by the appellant before AO and CIT(A), we find that the appellant has duly explained the nature and source of the cash deposited in his bank account. He has also explained the source of the repayment of loan to various parties during the year. The CIT(A) has duly considered the explanation and details filed by the assessee and has rightly observed that the AO made the addition on the basis of assumption only. On appreciation of the explanation

and details furnished by the appellant, he has deleted the additions made u/s 69A and 68 of the Act. Therefore, we do not find any infirmity in the order of the CIT(A) passed u/s 250 of the Act. Accordingly, the ground Nos.1, 2 and 3 raised by the revenue are dismissed.

8. Ground Nos.4, 5 and 6 are general in nature and do not require adjudication.

9. In the result, the appeal of the revenue is dismissed.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 in the open court on 30/04/2025.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat

दिनांक/ Date: 30/04/2025

SAMANTA

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A) / PCIT
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**// TRUE COPY //**

By Order

Assistant Registrar/ Sr. PS  
ITAT, Surat