

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 1261/SRT/2024
(Assessment Year: 2017-18)

Niraj Vasantlal Soni, 8, Bhrugupur Society, Kasak Road, Bharuch, Gujarat-392002	Vs.	Income Tax Officer, Ward-1(2), Bharuch
[PAN No. AHRPS2640A]		
(Appellant)	..	(Respondent)

Appellant by :	Shri S. N. Divatia, A.R.
Respondent by:	Shri Mukesh Jain, Sr. DR

Date of Hearing	21.04.2025
Date of Pronouncement	06.05.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeal), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 03.10.2024 passed for A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal:

“1.1 The order passed by U/s. 250 passed on 30.03.2024 by NFAC, [CIT(a)], Delhi (for short CIT(A))” upholding the addition of Rs.15,17,338/- made by A.O. is wholly illegal, unlawful and against the principles of natural justice.

2.1 The ld. CIT(A), has grievously erred in law and or on facts in not appreciating that there could not be compliance to the notices claimed to be issued mainly on account of failure of the tax consultant and the appellant being illiterate and residing in a remote village, he was unaware about the same. Thus, there was a sufficient cause for failure to comply with the notices claimed to be issued by NFAC.

- 2-

3.1 The ld. CIT(A) has grievously erred in law and or on facts in upholding that the cash deposits to the extent of Rs. 15,17,338/- was unexplained income u/s69A.

3.2 That the in the facts and circumstances of the ld. CIT(A), ought not to have upheld the addition of Rs. 15,17,338/-.”

3. The brief facts of the case are that the assessee is an individual and is engaged in the business of selling of Gold jewellery and ornaments and job work income. During the year under consideration, the assessee had declared total income of Rs. 4,37,570/-. The Assessing Officer observed that during the impugned year under consideration, the assessee deposited cash to the tune of Rs. 29,00,000/- in his IDBI Bank account, during the demonetization period on 11.11.2019. The Assessing Officer asked the assessee to prove the source of such cash deposit of Rs. 29,00,000/- during the demonetization period, however, in absence of satisfactory explanation by the assessee, the Assessing Officer made an addition of Rs. 29,00,000/- as unexplained income under Section 68 of the Act.

4. In appeal Ld. CIT(A) observed that the assessee during the appellate proceedings submitted that during the festive season and more particularly during the Diwali, sale of ornaments increases. During the appellate proceedings, the assessee submitted copy of invoices, copy of VAT returns and confirmation of sale from the parties, to whom the cash sales were made. Accordingly, with respect to parties, from whom the confirmation was received, the Ld. CIT(A) gave relief to the assessee and deleted additions to the extent of Rs. 13,82,662/- out of the total additions made by the Assessing Officer. While allowing the part relief to the assessee the Ld. CIT(A) made the following observations:

“6.2 Further, the appellant has submitted that during the festive seasons and more particularly during Diwali, sale of Gold ornaments increases. The appellant has also

submitted copy of invoiced, copy of VAT Return, confirmation of persons to whom cash sale was made.

Details of Confirmation of Account (Oct. 2016):-

<i>S.N.</i>	<i>Name of Person to whom cash sale was made</i>	<i>Amount (Rs.)</i>
<i>1</i>	<i>Ajaybhai B. Adesara</i>	<i>2,96,499/-</i>
<i>2</i>	<i>Das Gopalbabu Robin</i>	<i>3,05,998/-</i>
<i>3</i>	<i>Himaben M. Soni</i>	<i>1,90,000/-</i>
<i>4</i>	<i>HiteshP. Soni</i>	<i>1,60,000/-</i>
<i>5</i>	<i>Neetaben H. Soni</i>	<i>1,31,002/-</i>
<i>6</i>	<i>Nikunj Rajeshbhai Soni</i>	<i>2,99,163/-</i>
<i>Total Amount</i>		<i>13,82,667/-</i>

6.3 In view of the above discussion, it is clear that the appellant has made cash sales of gold ornaments to said parties in month of October 2016. Also jhe said transactions are part of accounts/financials of appellant gets relief of Rs. 13,82,6627-out of Total addition of Rs. 29,00,000/-.

*6.4. Therefore, the appeal of the Appellant is **party allowed.**"*

5. The assessee is in appeal before us against the order passed by the Ld. CIT(A), giving part relief to the assessee.

6. Before us, the Counsel for the assessee primarily reiterated the submissions made before the Tax Authorities and drew our attention to the VAT returns filed by the assessee and submitted that during the year the assessee had made total purchase of 75.9 lakhs and total sales of Rs. 80.83 lakhs and that the cash was deposited out of the cash sales made by the assessee. Further, the Counsel for the assessee submitted that the assessee had opening cash balance of Rs. 2.59 lakhs for the impugned year under consideration as well.

7. In response, Ld. D.R. drew our attention to written submission of the assessee dated 12.11.2019 and submitted that for the corresponding period during the previous assessment year, despite being the Diwali season, there were cash deposits to the tune of Rs. 8.81 lakhs whereas for the same period during

- 4 -

the impugned assessment year, there was substantial increase in the cash deposits during the demonetization period. Further, the D.R. pointed out that in this year all sales were below Rs. 20,000/-, which was specifically with a view to evade taxes. Further, Ld. D.R. pointed out that the assessee had not deposited a very basic and essential evidence like stock register, for the impugned year under consideration to substantiate whether the assessee had stock in hand from which sale of jewellery / ornaments were in fact made by the assessee which were the source of deposits of cash during the demonetization period.

8. On going through the rival contentions, we are of the considered view that it is a fit case where the matter may be set-aside to the file of Assessing Officer for de-novo consideration, wherein the assessee would be required to submit the essential documents like stock register and other supporting documents in support of the sale made to various parties for the impugned year under consideration. During the course of arguments, it became evident that while the assessee had contended that it is engaged in the sale of ornaments and gold jewellery, however, even the basic supporting documents like stock register were not submitted before the Tax Authorities for necessary verification. In the result, the matter is set-aside to the file of Assessing Officer, with the aforesaid observations.

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

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 06/05/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad; Dated 06/05/2025

TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat