

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No.5400/DEL/2024
(Assessment Year: 2017-18)**

Arvind Kumar,
Prop. M/s. Shree Balaji Trading Co.
Lajpat Colony,
Panipat – 132 103 (Haryana).

vs.

Addl./ACIT,
NFAC, Delhi.

(PAN : ABBPK2191C)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Somil Aggarwal, Advocate
Shri Deepesh Garg, Advocate
REVENUE BY : Shri Sanjay Kumar, Sr. DR

Date of Hearing : 13.03.2025
Date of Order : 04.06.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT (A)", for short] dated 24.09.2024 for the Assessment Year 2017-18.
2. Brief facts of the case are, the AO based on the information available on ITBA that assessee has deposited cash of Rs.43 lakhs during demonetization period from 09.11.2016 to 30.12.2016 in the bank account. Accordingly, notice u/s 148 of the Income-tax Act, 1961 (for

short 'the Act') was issued and served on the assessee. In response, assessee had filed his return of income on 24.04.2021 declaring total income of Rs.4,23,770/-. Accordingly, notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee. Based on the information available on record, the AO observed that assessee has deposited Rs.43 lakhs from 09.11.2016 to 30.12.2016 i.e. during demonetization period. On enquiry, assessee submitted vide letter dated 07.02.2022 as under :-

“.... During the period of demonetization (09.11.2016 to 30.12.2016) I have deposited Rs.43,00,000.00 to my two current accounts. As regard to cash deposited into bank in above said period it is stated that our most of the sales to hawkers (Pheriwalas/Numaish Walas) who purchase the goods from us and sold the goods door to door or sold the goods at various weekly markets at various stations, After selling the goods the paid cash to our representative over there who deposited the cash so collected in the interval of 3-4 day into my current account. Further we use the bank balance for payment to our suppliers or small cash withdrawal for petty expenses. I am enclosing herewith detail of cash deposited into bank account and along the source of cash received further also enclosing herewith list of the persons (Pheriwalas) along with their address for your kind verification from whom my representative collected the cash deposit the same into my bank account....”

3. Further, assessee has provided details of 141 debtors from whom he collected cash of Rs.43 lakhs and deposited the same in bank account during demonetization period. The AO observed that assessee had not provided complete details and documentary evidences of debtors. Therefore, further notices were issued to submit the relevant information.

Since assessee has not submitted any further details, the AO proceeded to make the addition u/s 68 of the Act with the observation that the assessee has deposited his unaccounted cash of Rs.43 lakhs in his bank account during demonetization period. Accordingly, he taxed the abovesaid income u/s 115BBE of the Act.

4. Aggrieved with the above order, assessee preferred an appeal before the NFAC, Delhi and filed following submissions :-

“That the assessee is a wholeseller in Handloom products at Panipat. He had been selling his goods to the small dealers (Feriwala, Numaishwala and Hawkers) in whole of India. He had two Bank Accounts in Allahabad Bank at Allua Town of Kerala State and another account of Bank of India in Peenya Town of Karnataka, State of South of India.

During the period of demonetization between 09.11.2016 to 30.12.2016 the assessee had deposited the following amounts in Old Currency as well as in New Currency received from Sundry Debtors and deposited in his South Indian cities of Karnataka State and Kerala Sate.

Date	Amount	Currency	Name of Bank
11.11.2016	Rs.5,00,000/-	Old	Allahabad Bank, Allua, Kerala
12.11.2016	Rs.5,00,000/-	Old	Allahabad Bank, Allua, Kerala
14.11.2016	Rs.5,00,000/-	Old	Allahabad Bank, Allua, Kerala
17.11.2016	Rs.5,00,000/-	Old	Indian Bank, Pinaya, Karnataka
24.11.2016	Rs.6,00,000/-	Old	Indian Bank, Pinaya, Karnataka
02.12.2016	Rs.5,00,000/-	New	Allahabad Bank, Allua, Kerala
03.12.2016	Rs.5,00,000/-	New	Allahabad Bank, Allua, Kerala
23.12.2016	Rs.6,50,000/-	New	Indian Bank, Pinaya, Karnataka
Total	Rs.43,00,000/-		

Totalling Rs.43,00,000/- that is Rs.26,50,000/- in old currency and Rs.16,50,000/- in new currency.

These cash amounts has been deposited by the employee of the assessee firm who had been collecting the money in cash from petty feriwala, Hawker etc. on day to day basis locally by remaining in Karnataka State and Kerala State. The Sundry Debtors were very petty persons of the level of a laborer and used to deposit the cash sale which the employee of the assessee in an interval of 2.3 days.

Whole of the above amounts have been deposited in towns of Kerala and Karnataka in cash in assessee's Bank account from sale proceeds of goods and the amount relates to the sale of goods only. If the assessee had unaccounted cash with him how he could have deposit the cash in towns of Kerala State and town of Karnataka State why not in Panipat or nearby town itself. Since he is resident of Panipat so it proves beyond doubt that the cash deposited is out of recoveries from State of Kerala and Karnataka State.

The Sundry Creditors have no proper residing premises. Since the Hawkers, Feriwal (Debtors) are persons of very low means they are nor filling their returns nor they had been having PAN Numbers the assessee had filed the details during assessment proceeding of their names address available etc. and the details of collection of money by the employee of the assessee.

The proceedings have been initiated u/s 147/148 on account of depositing of Rs.43,00,000/- in Allahabad Bank account only by the assessee in Old currency notes is incorrect as the assessee had deposited Rs.26,50,000/- in Old currency and Rs.16.50,000:- in New Currency in Two banks and not in One Bank that is Allahabad Bank, the proceedings initiated to re-open the case have been on totally wrong facts and bad in law as such assessment made is illegal. (Copy of the Reply Letter is enclosed).

While framing Assessment Order the learned AO has accepted the sales made to different Hawkers/feriwalas our petty Sundry Debtors from whom the collections were made in South of India and deposited in Bank Accounts maintained in the State of Karnataka and Kerala. The assessee has himself shown the sales as revenue receipts in regular books which have been duly audited by the Chartered accountant.

The learned AO has wrongly made addition of Rs.43,00,000/- on account of cash received from Sundry Debtors to whom the Goods were sold in course of regular business, the sales of which are duly recorded in the books of account as from unexplained source is wrong unless books of account are rejected on valid reasons.”

5. After considering the above submissions, ld. CIT (A) sustained the addition with the observation that the nature and source of deposit made

and the details of persons from whom the cash was received by the assessee along with contacts/addresses/ signatures/confirmations from the buyers of the goods were remained unexplained. Only mere submissions of incomplete details of the dealers do not prove the genuineness and creditworthiness of the dealers.

6. Aggrieved with the above order, assessee is in appeal raising following grounds of appeal :-

“Ground 1 – That the Pr. CIT Appeal has erred in rejecting the appeal of the assessee.

Ground 2 – That the proceedings initiated u/s 147/148 are bad in law.

Ground 3 – That the addition of Rs.43,00,000/- u/s 68 without rejecting the books of the assessee is against law and facts.

Ground 4 – That the addition of Rs.43,00,000/- on account of amount deposited during demonetization period withdrawn out of regular account books maintained in illegal.

Ground 5 – That the taxation of the addition of Rs.43,00,000/- u/s 115BBE of the Income Tax Act is against law and facts.”

7. The assessee has taken the following additional grounds :-

“1. That having regard to the facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in not quashing the impugned reassessment order passed by Ld. AO u/s 147/144B without assuming jurisdiction as per law and without complying with mandatory conditions u/s 147 to 151 as envisaged under the Income Tax Act, 1961 and without obtaining valid approval/sanction u/s 151 as per law.

2. That in any case and in any view of the matter, action of Ld. CIT (A) in not quashing the impugned reassessment order passed by Ld. AO u/s 147/144B, is bad in law and against the facts and circumstances of the case and no sustainable on various legal and factual grounds.”

8. However, at the time of hearing, ld. AR of the assessee has not made submissions with regard to the additional grounds so taken. Therefore, the additional grounds taken by the assessee are not admitted.
9. At the time of hearing, ld. AR of the assessee submitted as under :-

“1. Ld. AO in Para 4 at Page 2 of the impugned assessment order stated that sundry debtors are not having PAN and assessee has not filed any documentary evidences like PAN of the debtors, copies of sales bill, sale account, cash book, stock register etc. and no details of agent who collected cash from the clients of the assessee were filed by the assessee.

1.1 In reply it is submitted that the assessee vide reply submitted dated 17.02.2022, assessee submitted the details of the sales made by the assessee to debtor giving their complete name, father's name, and addresses with amount collected by the staff of the assessee from these customers together with copy of c. d tail of purchase and sales. PAN details were not submitted as assessee made sales to the very small dealers e.g. Pheriwalas, Numaishwala and Hawkers etc. who sells the material after purchasing the same from the assessee on roads, streets and door to door and earn a very nominal income to meet their daily livelihoods. Furthermore, it is not the case of Ld. AO and CIT (A) that any enquiry was conducted by the Ld. AO from any of these persons and they would have denied the dealings with the assessee. It is also not out of place to mention here that the books of the assessee are audited and no discrepancy could be pointed out by the Ld. AO or CIT(A) which is evident from the plain reading of the assessment order and CIT(A) appeal order. Furthermore, the sales/purchases made by the assessee were accepted by the VAT Department which is evident from the VAT Returns filed which are also placed in Paper Book as PB 715-750. All these facts and evidences placed on record substantially establish the genuineness of the cash deposited by the

assessee during the demonetization period was out of cash collected from the debtors against sales made to them.

2. Ld. AO stated in Para 4 at Page 3 of the impugned assessment order that assessee has provided incomplete names without addresses of the purchaser and in many cases name of the debtors does not match with the name provided in the sale account. Ld. AO further mention that assessee had not provided confirmations, copies of the m proof, address proof, signature proof, copy of the ROIs of the debtors.

2.1 In reply it is submitted that as already explained that the debtors of the assessee are the persons of very low means and just earn their livelihood by selling the material door to door and in weekly bazars. It is wrong to allege that incomplete names were provided and addresses were not provided of these persons. The list of the debtors submitted by the assessee are placed in the paper book at PB 30-32 from whom cash was collected by the staff of the assessee during the demonetization period. Therefore, it is wrong to allege that incomplete names were provided and addresses were not provided as these persons are not assessed to tax as such PAN details could not be provided by the assessee as these could not be obtained by the assessee from these persons.

3. In para 5 at Page 3 & 4 of the impugned assessment order, Ld. AO stated that assessee received cash from his debtors on 01.11.2016 to 02.12.2016 and deposited cash between 11.11.2016 to 03.12.2016 in his bank accounts during demonetization period. Ld. AO stated that if the government had banned old currency notes of Rs.500/- and Rs.1,000/- from 08.11.2016, why the assessee had received the old currency from the debtors during the demonetization period?

3.1 In reply, it is submitted that it is wrong to allege that staff of the assessee deposited Rs.43,00,000/- in old currency (SBN) during the demonetization period in the bank account of the assessee. Infact, the details submitted of Rs.43,00,000/- collected by the staff members of the assessee (PB 456-460) is details of total collection by the staff of the assessee during the demonetization period which also includes new currency or other than SBN Notes after demonetization period which is evident from the pay-in-slips placed (PB 676-679) in the paper book which

amounts to Rs. 16,50,0001-. Therefore, this observation of Ld. AO that Rs.43,00,000/- was deposited only in SBN is without any basis material or evidence.

4. In para 6 at page 4 of the impugned assessment order, Ld. AO stated that Rs.43,00,000/- deposited by the assessee in his bank accounts from the unaccounted source of income. Ld. AO further stated that assessee has maintained the audited books of account, therefore, addition of Rs.43,00,000/- made as per provision of section 68 of the Act as unexplained credit entries and is taxed as per provision of section 115BBE of the Act.

4.1 In reply it is submitted that in one breath, Ld. AO confirmed this fact that assessee's books of accounts are audited and in the same breath also, Ld. AO has invoked the provisions of Section 68 r.w.s. 115BBE of the Act despite the fact all sales made by the assessee are duly recorded in the audited books of accounts and as the amount collected by the staff of the assessee from the sundry debtors is part of the sales recorded by the assessee in his books of accounts. The provision of Section 68 and Section 115BBE of the Act do not apply to the case of the assessee.”

10. He relied on the following decisions :-

- (i) Narsimha Trading Co. vs. ITO R/Special Civil Application No.17833 of 2021 (2025) 170 taxmann.com 10 (Gujarat) December 2, 2024.
- (ii) Dipak Balubhai Patel (HUF) v. Income-tax Officer (2024) 165 taxmann.com 684 (Ahmedabad – Trib.) IT Appeal No.942 (Ahd.) of 2023 (Assessment year 2017-18) August 22, 2024.
- (iii) Shobha Tomar vs. DCIT (2024) 164 taxmann.com 61 (Jaipur – Trib.) IT Appeal No.373 (JP) of 2024 (Assessment Year 2017-18) July 1, 2024.
- (iv) Mahesh Kumar Gupta vs. ACIT (2023) 151 taxmann.com 339 (Jaipur – Trib.) IT Appeal No.149 (JP) of 2022 (ASSESSMENT YEAR 2017-18) March 23, 2023.
- (v) DCIT vs. Roop Fashion (2022) 145 taxmann.com 216 (Chandigarh-Trib.) IT Appeal No.136 (Chd.) of 2021 Cross Objection No.6 (Chd.) of 2021 (ASSESSMENT YEAR 2017-18) June 14, 2022.
- (vi) Kalaneedi Jewellers LLP (2022) 96 ITR 66 (Chandigarh-ITAT).

- (vii) CIT vs. Hirapanna Jewellers (2021) 96 ITR 24 (Vishakhapatnam – ITAT).
- (viii) Arun Garg vs. ITO (2022) 98 ITR 508 (Chandigarh-ITAT)
- (ix) Hon'ble Madras High Court in the case of S.M.I.L.E. Microfinance Limited vs. ACIT – W.P. (MD) No.2078 of 2020 dated 19.11.2024.

11. Further, ld. AR submitted a chart depicting the cash collection pattern of the assessee in five assessment years :-

ARVIND KUMAR (PROP. M/S SHREE BALAJI TRADING CO. & TIRUPATI TEXTILES)

Assessment Year	Net Sale	Gross Sale (Incl. Vat)	Amount Received in Bank	Cash Collected Against Sale	Bank Deposit	Debtors	
2015-16	1,02,87,511	1,02,87,511	-	1,02,87,511	Hdfc Bank (Bangalore) Total	21,02,000 21,02,000	1,08,890
2016-17	2,37,33,735	2,47,01,321	-	2,47,01,321	Allahabad Bank (Allua) Ind. Bank Hdfc Bank Total	1,48,89,160 5,74,800 19,65,000 1,74,28,960	30,53,355
2017-18	2,67,67,112	2,77,83,164	6,50,000	2,71,33,164	Allahabad Bank (Allua) Ind. Bank Total	2,03,05,000 66,25,000 2,69,30,000	21,07,533
2018-19	3,57,65,578	3,76,38,645	31,57,656	3,44,80,989	Allahabad Bank (Allua) Allahabad Bank (Madurai) Ind. Bank Total	1,07,60,000 53,00,000 1,65,23,800 3,25,83,800	27,79,384
2019-20	7,32,22,121	7,76,94,900	2,99,00,942	4,77,93,958	Allahabad Bank (Allua) Ind. Bank Allahabad Bank (Madurai) Hdfc Bank (Panipat) Total	1,28,19,000 2,01,21,070 95,20,000 29,30,000 4,53,90,070	38,07,219

12. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.
13. Considered the rival submissions and material placed on record. I observed that assessee is a wholesaler in handloom products and sells his goods to small dealers i.e. Pheriwalas, Numiaswalas and Hawkers who sells the material after purchasing the same from assessee by selling them on roads, streets, weekly bazaars and door to door. As per the

submissions, I observed that assessee is doing its business from past several years and he sells his goods in Kerala and Karnataka cities. Habitually assessee sells the goods to the small traders by cash and collects the same in cash. Assessee has submitted a chart indicating the sales of various years from AYs 2015-16 to 2019-20 wherein the declared sales of the assessee was Rs.1.02 crores to Rs.4.77 crores. It is a fact on record that assessee's business is heavily dependent on cash transactions and collects the cash from the debtors. During the demonetization period, assessee has submitted a detailed chart indicating the collections from its debtors in old currency as well as new currency and the same was deposited by the assessee in his bank account maintained at Allahabad Bank, HDFC Bank and Indusind Bank. Considering the nature of business and assessee has declared gross sales of Rs.2.47 crores, assessee has deposited during the year Rs.1.49 crores in Allahabad Bank, Rs.19.65 lakhs in HDFC Bank and Rs.5,74,800/- in Indusind Bank. Therefore, from the information available on record, I observed that assessee has source of cash and also the nature of business is habitually transacts on cash basis. Therefore, assessee has already proved the presence of sources of cash deposited during the demonetization period and further it is a fact on record that assessee deals with small traders and hawkers who sells their goods in Karnataka and Kerala. As per the submissions made

before me, the assessee has already submitted the details of sales to his debtors giving complete details like address and the details of staff who collected the cash from different debtors. Considering the nature of business and turnover recorded by the assessee, the source of cash was already brought on record.

14. Further, before me, assessee has submitted additional evidences under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 in the form of paper book giving details of sundry debtors and various further details from pages 33 to 750. Since the additional evidences are filed before me, I am inclined to remit this issue back to the file of AO with the limited purpose to verify the additional evidences as per law and allow the claim of the assessee after due verification, it is needless to say that proper opportunity of being heard to the assessee.
15. In the result, the appeal of the assessee is partly allowed for statistical purposes as indicated above.

Order pronounced in the open court on this 4th day of June, 2025.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 04.06.2025
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI