

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.156/Nag./2025**

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

Shri Omprakash Shankarlal Sharma  
Main Road, Banosa, Daryapur 444 803  
PAN – ACVPS3338Q

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Amravati Circle, Amravati

..... Respondent

Assessee by : Shri Mahavir Atal  
Revenue by : Shri Surjit Kumar Saha

Date of Hearing – 13/05/2025

Date of Order – 27/05/2025

**ORDER**

The instant appeal has been filed by the assessee is against the impugned order dated 26/09/2024, passed by the learned Commissioner of Income Tax (Appeals), Jodhpur, [*learned CIT(A)*], for the assessment year 2017-18.

2. During the course of hearing, the Registry has pointed out that the present appeal by the assessee is filed with a delay of six days. Since the delay is minor, the delay is hereby condoned.

3. The assessee has raised following grounds:-

"1. THAT considering the fact of the case, the lower authorities erred in confirming the addition of Rs. 8,14,659/- presuming the deposited in bank is out of kerosene sale and recovery and treating the same as unexplained investments u/s 69 is incorrect The addition made is without appreciating evidence on record. The same is improper, unjust and deserves to be deleted.

2. THAT the observation of learned CIT (Appeals) in Para 6.2 at page 16 of appeal order regarding poor compliance relying on para 2 of assessment order is not correct and contrary to record. The observation of CIT (Appeals) and addition confirmed on said presumption is not correct nor justified. The assessment framed by AO is improper, incorrect and bad in law.

3. THAT any other ground/s that may be raised at the time of hearing."

4. Facts in Brief:- The assessee is an Individual who filed his return of income for the year under consideration on 31/01/2018, disclosing total income at ₹ 34,36,400, which was processed under section 143(1) of the Income Tax Act, 1961 ("*the Act*"). Subsequently, the case was selected for complete scrutiny under CASS. The assessee is running a petrol pump in the name and style of M/s O.S. Sharma Petroleum. During the assessment proceedings, notices under section 143(2)/142(1) of the Act and show cause notice were issued on different dates as mentioned in the assessment order. On 16/12/2019, the assessment order under section 143(3) of the Act was passed by the Assessing Officer determining the total income at ₹ 42,51,060, after making an addition of ₹ 8,14,659, on account of unexplained cash deposited in Bank Accounts in the form of SBN during the demonetisation period from 09/11/2016 to 30/12/2016 which was treated as unexplained investment under section 69 of the Act.

5. On appeal, the learned CIT(A) dismissed the assessee's appeal by confirming the addition made by the Assessing Officer. The observations of the learned CIT(A) are as follows:-

*"The appellant, in Statement of Facts as well as Ground Number 1 and 2 has taken plea that the addition is based on presumption, without affording reasonable opportunity and without verifying and considering the facts and submission made by the assessee. However, the appellant's plea is not acceptable since the addition has been made after giving sufficient opportunity of hearing to the assessee during the assessment proceedings and after considering his reply/submissions. The AO, after examining the bank accounts and facts of the case, has given his finding in the light of the provisions / Guidelines contained in the Govt. of India's Gazette Notification that the appellant was not allowed to accept the old SBNs after 09/11/2016 for Kerosene sale and recovery from debtors in the guise of earlier sale of petrol/diesel but he has accepted and he has failed to explain the sources for making deposit of cash in SBN notes to the extent of Rs. 8,14,659/-. Thus, the appellant's claim is without any basis substance or supporting documents and hence the same cannot be acceptable.*

*Further, the addition was made on the basis of information available with the AO and the sources of deposit of cash in SBN notes were not explained during the entire assessment proceedings. Thus, in absence of any explanation or supporting evidences/ documents, the AO made the addition on the basis of details and material available on record as such there is no merit in the appellant's plea that the addition was made on presumptions and without proper basis or verification or facts and submissions.*

*In the present appellant proceedings, more than ample opportunity of being heard was provided to the appellant, which the appellant failed to avail of. Thus, as per details of notices mentioned in earlier para this order it is quite clear that the appellant has chosen not to make any compliance to any of the notices issued. As such, there is no progress/ material change in the compliance status even during the present appellate proceedings.*

*I have considered the facts and circumstances of the case. From the above facts, it is quite clear that the submissions or evidences/ documents submitted by the appellant during the present appellate proceedings are not enough to substantiate his plea/ claim/ grounds taken by the appellant. Thus, this ground has been raised without proper merit or substance. Keeping in view the factual position, I am of the opinion that the A.O. was justified in making an addition of Rs. 8,14,659/- on account of making unexplained cash deposit in SBN notes to the extent of Rs. 8,14,659/-which was treated as unexplained investment u/s 69 of the Income-tax Act. 1961 Therefore, the addition made by the AO is hereby confirmed.*

*In result, the Ground Number 1 and 2 raised in this appeal are dismissed."*

6. Before me, the learned Counsel for the assessee has furnished Paper Book containing following documents:—

1. Points;
2. Submission before CIT(Appeals) dated 12/03/2024;
3. Submission before CIT(Appeals) dated 29/05/2024;

4. Reply before AO dated 30/11/2019;
5. Reply before AO dated 10/12/2019;
6. Certificate of cash deposit in SBN & regular notes from SBI;
7. Chart showing calculation of cash deposit based on SBI certificate;
8. Ledger of Kerosene Sales;
9. Date wise sales chart;
10. Cash book from 09/11/2016 to 31/12/2016;
11. Computation of income;
12. Audited financial statements."

7. I have heard both the rival parties and perused the material available on record. It is clear that the amount of cash deposit is already reflected as turnover which is offered as business income for taxation. Addition of cash sales separately will lead to double taxation because such sales have already been considered as turnover. Thus, the impugned order so passed by the learned CIT(A) is hereby overturned and the entire addition is directed to be deleted.

8. In the result, assessee's appeal is allowed.

Order pronounced in the open Court on 27/05/2025

**NAGPUR, DATED: 27/05/2025**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur