

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

**Before: Shri T.R. Senthil Kumar, Judicial Member And  
Shri Bijayananda Pruseth, Accountant Member**

**ITA No: 1246/SRT/2024  
Assessment Year: 2017-18**

Kevinbhai Jayantibhai Vadodariya Ground Floor, Pramukh Darshan Appartment, Gayatri Nagar-3, Ambika Road, Katargam, Surat-395004 <b>PAN: AOCPV4377D (Appellant)</b>	Vs	The ITO Ward-3(2)(4), Surat  <b>(Respondent)</b>
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**Assessee Represented: Shri P.M. Jagasheth, CA  
Revenue Represented: Ms. Neerja Sharma, Sr.D.R.**

Date of hearing : 07-05-2025  
Date of pronouncement : 26-05-2025

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Assessee as against the appellate order dated 21.10.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2017-18.

2. Brief facts of the case is that the assessee is an individual and Proprietor of M/s. India 4 Ticket engaged in the selling of Mobile Recharge Vouchers and also derived commission income thereon. For the Asst. Year 2017-18, assessee filed its Return of Income on 04-07-2017 declaring total income of Rs.4,99,410/-. Return was taken for scrutiny assessment and made addition of Rs.84,79,250/- being cash deposits made during demonetization period with its bank account maintained with Bank of Baroda of Rs.19,20,070/-; with Kotak Mahindra Bank Ltd. of Rs. 13,39,000/- and HDFC Bank Ltd. of Rs.52,20,180/-. The assessee explained that it made cash deposits of Rs. 7,05,500/- only in old currency during demonetization period while remaining cash deposits were made in the new currency. The modus operandi of business followed by the assessee is that the purchases recharge coupons and sales to various retailers in cash, the same were deposited in his bank account. In the previous year 2016-17, the very same assessee made cash deposit of Rs. 10,57,38,484/- in his bank accounts and for the present assessment year made cash deposit of Rs.10,56,40,151/- out of which old currency were to the tune of Rs.7,05,500/- and the remaining cash deposit of Rs.10,49,34,651/- by Non SBN Currencies. However the above explanation was not accepted by the Assessing Officer and made addition of Rs. 84,79,250/- under section 68 of the Act and also charged to tax u/s. 115BBE of the Act.

3. Aggrieved against the addition, assessee filed an appeal before Ld. CIT(A) who has also confirmed the additions and dismissed the appeal.

4. Aggrieved against the appellate order, assessee is in appeal before us raising the following Grounds of Appeal:

1. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner (A) has erred in confirming the action of the Assessing Officer in making addition of Rs.84,79,250/ on account of alleged unexplained cash credit u/s. 68 of the I.T. Act, 1961.
  2. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in invoking u/s. 115BBE of the act and in thereby taxing entire receipts of 60 percentage.
  3. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered adequate opportunities to hear the case passed the order, hence the case may please be set aside and restored back to the CIT(A) or AO.
  4. It is therefore prayed that the above penalty may please be deleted as learned members of the tribunal may deem it proper.
  5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.
5. Ld. Counsel Shri P.M. Jagasheth appearing for the Assessee submitted before us a Paper Book containing the bank statements, comparative table of cash deposit during the assessment year 2016-17 and present Asst. Year 2017-18 and also copy of the agreement for recharge, ticket booking etc. Ld. Counsel further submitted as per the distributor agreement for recharge vouchers, the assessee selling to various retail customers by cash and the same were deposited in his bank account. Further the assessee was covered under audit as per Section 44AB of the Act and duly got its books of accounts audited. Further during demonetization period only Rs.7,05,500/- of old currency was deposited by the

assessee. The remaining Rs. 10,49,34,651/- were made in Non SBN Currencies only. Thus the Assessing Officer is not correct in making additions u/s. 68 and also invoking provisions of Section 115BBE of the Act and relied upon the following case laws:

1. ABHISHEK BIPINBHAI NAIK VS. ITO [2023] 152 TAXMANN.COM 500 (SURAT BENCH)
2. RAVI MAHEXA VS. ITO, WD-5, VAPI ITA NO. 193 TO 195/SRT/2022 (ITAT, SURAT)
3. SHI RISHIKESH RAJA VS. ITO, WD-3(1), JAIPUR ITA NO.735/JPR/2023 (ITAT JAIPUR)
4. SHRI TUKARAM VS. THE ITO, WARD DHAMTARI (C.G.) ITA NO.168/RPR/2025 (ITAT, RAIPUR)
5. SHRI SUDHIR MAHAMUNKAR VS. ITO, WD-26(3)(3), MUMBAI ITA NO.1381/MUM/2020 (ITAT, MUMBAI)
6. SMILE MICROFINANCE LIMITED VS. THE ACIT, CC-1, MADURAI W.P.(MD)NO.2078 OF 2020 AND W.M.P.(MD)NO.1742 OF 2020 (HC OF MADRAS)
7. NARANBHAI SAMATBHAI BHARWAD L/H. OF DEVRAJBHAI NARANBHAI BHARWAD VS. ITO, WD-6(1)(1), SURAT ITA NO.272/AHD/2024 (ITAT, AHMEDABAD)

6. Per contra, Ld. Sr. D.R. Ms. Neerja Sharma appearing for the Revenue supported the orders passed by Lower Authorities and requested to confirm the additions.

7. We have given our thoughtful consideration and perused the materials available on record. It is undisputed fact that the assessee is engaged in the business of selling of mobile recharge vouchers and derived commission income with M/s. Cyber Plot India Pvt. Ltd. as well as M/s. GI Technology Pvt. Ltd. by way of Distribution Agreement dated 28-03-2016. The Distribution Agreement are placed on record at Page Nos. 37 to 77 of the Paper Book. The assessee as a distributor, used to act as commission

agent for promotion, marketing and distribution of various recharge vouchers. The assessee sales to the customers retail vouchers by cash and the same were deposited in its bank account throughout the financial year including the demonetization period.

7.1. During this assessment year, the assessee made cash deposit of Rs.10,56,40,151/- out of which Rs.7,05,500/- only as the old demonetization currencies. The assessee also demonstrated before us in the earlier financial year, the assessee made cash deposit in his bank account to the extent of Rs.10,57,38,484/- which was not doubted by the Assessing Officer. Further perusal of the bank statement makes it clear, the assessee remitted the amounts to Tata Tele Services Ltd., Airtel DTH, GI Technology Pvt. Ltd. either by NEFT or by cheque payments. Thus the entries in the bank statement clearly shows that the assessee was in the business activities associated with selling of recharge vouchers. Further perusal of the orders passed by the Lower Authorities, they have not considered the above submissions of the assessee that only SBN currencies of Rs.7,05,500/- was deposited during the demonetization period. There is no dispute about similar cash deposits made by the assessee in the previous financial year. Thus in our considered view, the addition made by the Assessing Officer and sustained by Ld. CIT(A) are not justified. The Lower Authorities failed to verify the bank statements furnished by the assessee as well as the copies of the Agreement for Distributor of recharge coupons, ticket booking, etc. with M/s. Cyber Plot India Pvt. Ltd. and M/s. GI Technology Pvt. Ltd. Further the turnover which belongs to so cash deposited by the assessee in its bank account

have been offered for tax by the assessee. Hence there is no loss of Revenue to the Department, therefore we are not inclined to accept the contention of the Lower Authorities and the additions made thereon are liable to be deleted. Consequently charging tax u/s. 115BBE is also liable to be deleted. Thus the grounds raised by the assessee is hereby allowed.

8. In the result, the appeal filed by the Assessee is allowed.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 26-05-2025

**Sd/-**  
**(BIJAYANANDA PRUETH)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 26/05/2025**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
सूरत