

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.308/RPR/2025**

**निर्धारण वर्ष / Assessment Year : 2017-18**

Ashok Kumar Maloo  
Ground Floor, Halwai Line,  
Sadar Bazar, Raipur (C.G.)-492 001  
PAN: ADTPM9149C

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-4(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rajesh Golechha, CA  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 10.06.2025

घोषणा की तारीख / Date of Pronouncement : 18.06.2025

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM**

This appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 22.04.2025 for the assessment year 2017-18 as per the following grounds of appeal:

“1. On facts and in law, the learned CIT(A) has erred in confirming the addition of 10,42,500/- under Section 69A, ignoring that the cash deposits were out of explained, genuine business receipts and Girvi transactions.

2. The learned CIT(A) erred in failing to appreciate that under Section 44AD, the appellant was not required to maintain books of accounts, and therefore adverse inference on the basis of non-maintenance of detailed records is unjustified.

3. The learned CIT(A) has erred in law in not appreciating that demonetization-related cash deposits, if arising from recorded sales and business receipts, do not constitute unexplained money u/s 69A.

4. The learned CIT(A) failed to properly appreciate that there was consistent cash sales trend pre and post-demonetization, and that business turnover was duly declared and taxed as per presumptive taxation scheme.

5. The learned CIT(A) erred in upholding mechanical application of Section 115BBE without adjudicating on the validity of the underlying addition made under Section 69A.

6. The learned authorities failed to appreciate the settled judicial precedents that cash sales duly explained by turnover patterns and business nature cannot be treated as undisclosed income.

7. The rectification order passed u/s 154 is bad in law as it seeks to change the nature of assessment without addressing the pending appellate challenge to the underlying addition.

8. The reopening of assessment itself is bad in law, arbitrary and mechanical, without any independent application of mind, merely based on cash deposit data.

9. The entire proceedings suffer from violation of principles of natural justice as proper opportunity to reconcile cash movement and business records was not granted.

10. The appellant craves leave to amend, alter, vary, or add any other ground(s) of appeal at the time of hearing.”

2. The brief facts in this case are that the assessee who is engaged in the business of trading of gold, silver ornaments and Girvi (pledge) had filed his return of income for the year under consideration on 26.09.2017, declaring total income of Rs.7,65,360/- which was processed u/s.143(1) of the Income Tax Act, 1961 (for short ‘the Act’). Subsequently, the case of the assessee was reopened u/s.147 of the Act after recording reasons for reopening and obtaining approval u/s.151 of the Act. For the sake of completeness, the “reasons to believe” for reopening of the case are culled out as under:

“As per information on record, it is found that the assessee has deposited cash of Rs.10,42,500/- during the demonetization period from 9th Nov. to 31 Dec., 2016 in a bank account number 1384502880, maintained in a Seder Bazar branch of Central Bank of India . The assessee has deposited in his bank account, cash of considerably higher amount in comparison to the total income shown for the year under consideration.

On perusal of the above account (A/c Statement 1384502880) statement it is found that the balance in the above account remained very low throughout before the declaration of demonetization of high denomination old currency of Rs.1000/- and Rs.500/- and the balance in the account crossed Rs.1 lac only on few occasions, that too, for very short period. The amount deposited is considerably higher than the total income shown in the return of income for the assessment year under consideration. Further, the bank account 1384502880 in the Central Bank was opened in the name of a firm m/s.Shri

Nemichand Parasmal Jain , which was dissolved on 30.03.2008 and PAN details in the account was not changed even after the dissolution of the firm till 2019 .

In view of cash deposit of Rs.10,42,500/- in Bank account during the Demonetization period . I am of the opinion that the cash deposited by the assessee is very high in comparison to the total income shown for the relevant year, the provision of clause (b) of explanation 2 to section 147 is attracted and it is a fit case of escapement of income for the financial year under consideration. In view of the above, I have reason to believe that due to the failure on the part of assessee to disclose fully and truly his income, the income to the extent of Rs,10,42,500/, chargeable to tax for A.V. 2017-18 has escaped assessment within the meaning of section 147 of the Income tax Act, 1961."

3. Accordingly, notice u/s.148 of the Act was issued to the assessee on 04.02.2020. In response to the said notice, the assessee e-filed his return of income on 27.02.2020, declaring total income of Rs.7,65,360/-. During the course of the assessment proceedings, the assessee was asked by the A.O to submit following information:

"1. Brief note on the source of your income and detail of business activities carried out during the A.Y.2017-18.

2. Profit & Loss Account, balance sheet with its annexures for A.Y.2017-18 and Computation of Income for the A.Y. 2017-18.

3. Details of all bank accounts held by you and copy of bank statement for the period 01/04/2016 to 31/03/2017 of all bank accounts.

4. Explain the nature and source of cash deposit made in your bank accounts (Sadar Bajar Branch, Raipur, Chhattisgarh in the A/c. Nos. 1384502880 and 1384550709 of the Central Bank of India) during the demonetization period 08/11/2016 to 30/12/2016.

5. Details of denomination (100, 500, 1000, 2000) of cash deposit during the during the demonetization period 08/11/2016 to 30/12/2016.

6. Furnish the details of cash in hand as on 08/11/2016 and cash book for the financial year 2016-17.

7. Summary of date wise, Denomination wise (in old currency and new currency) cash deposited in bank account during the demonetization period 08/11/2016 to 30/12/2016.

8. Party wise (Name PAN, address, amount and nature of transaction) details from which you have received the old currency (SBNs) during the demonetization period 08/11/2016 to 30/12/2016.

9. From the Return of Income, it is seen that your total turnover is Rs.51,55,803/-. Please furnish reconciliation with bank statement.

10. Details of cash Sales during the demonetization period 08/11/2016 to 30/12/2016"

4. In response, the assessee submitted before the A.O, the computation of income, Bank Statement of A/c.1384502880, Central bank of India, copy of VAT challan for F.Y 2016-17, cash deposit slip of Central Bank of India and reply for source of cash deposit, which are reproduced as follows:

"Respected Sir,

With reference to above we have been asked by our above named client to submit as under for your kind and favourable consideration:-

1. THAT the Assessee has filed Income Tax Return on Dt. 27.02.2020 vide Ack. No. 312366020270220 in response to notice u/s 148 of the IT Act Total Income Show Rs.7,65,360/- Income derived from Retail Jewellery Business Return filed u/s 44AD of Income Tax Act 1961.

2. THAT the assessee is not maintain proper books of account because not required as Income Tax Act 1961 hence could not produce Profit & Loss Account, Balance Sheet for A.Y. 2017-18

and attach herewith only computation of Income for the A.Y. 2017-18.

3. THAT the copy of all bank statement (CBI Saving A/c No. 1384550709 in the name of Ashok Kumar Malu & CBI Current A/c No. 1384502880 in the name M/s. Nemichand Parasmal Jain) enclosed herewith for the period 01/04/2016 to 31/03/2017.

4. THAT the Cash deposit during the demonetization period (08.11.2016 to 30.12.2016) in Central Bank of India Current Account No.1384502880 in the name of M/s. Nemichand Parasmal Jain Prop. Ashok Kumar Maloo of Rs.10,42,500/- on 19.11.2016 in Old Currency (SBNs) out of Cash Balance as on 08/11/2016 of Approx. Rs.13,30,000/- from Girvi received and Retails Cash Sales Quarterly & Annual Vat Tax Return Details enclosed herewith:-

Particulars	1 <sup>st</sup> Qtr.	2 <sup>nd</sup> Qtr.	3 <sup>rd</sup> Qtr.	4 <sup>th</sup> Qtr.	Annual
Sales (VAT)	9,01,683/-	7,26,613/-	20,33,504/-	14,99,746/-	51,55,803/-

5. THAT Detail of denomination 1000 of 542 =5,42,000/- and 500 of 1001 =5,00,500/- Total Cash Deposit of Rs.10,42,500/- on 19.11.2016 Copy of Bank Slip enclosed herewith.

6. THAT the above cash deposit of Rs.10,42,500/- out of Approx. Cash balance of Rs.13,30,000/- as on 08.11.2016. Proper Cash Book not maintain because Income Tax Return Filed u/s.44AD of Income Tax Act, 1961 by the Assessee F.Y. 2016-17.

7. THAT the cash deposits in bank of Rs.10,42,500/- in old currency on dt.19.11.2016 during the demonetization period 08/11/2016 to 30/12/2016.

8. THAT the assessee not received the Old Currency (SBNs) during the demonetization period 08/11/2016 to 30/12/2016.

9. THAT the Assessee's Total Turnover of Rs.51,55,830/-.

Reconciliation from Bank:-

Cash Sales	Rs. 48,04,144	Cash Deposit in Bank Dt. 19.11.2016	Rs. 10,42,500
Credit Sales	Rs. 18,213	Cash Deposit in Bank Dt. 01.03.2017	Rs. 2,41,000
Sales by Cheque	Rs. 3,33,446	Sales by cheque deposit in bank dt. 19.11.2016	Rs. 83,446
		Sales by cheque deposit in bank Dt. 28.11.2016	Rs. 60,000
		Sales by Cheque deposit in bank Dt. 19.12.2016	Rs. 25,000
		Sales by Cheque deposit in bank Dt. 28.12.2016	Rs. 50,000
		Sales by Cheque deposit in bank Dt. 19.01.2017	Rs. 25,000
		Sales by Cheque deposit in bank Dt. 21.03.2017	Rs. 90,000
		Old Jewellery Purchase from customer by Cash F.Y. 2016-17	Rs. 30,19,771
		Salary and other expenses by cash F.Y. 2016-17	Rs. 3,90,636

		Cash Paid for Girvi F.Y. 2016-17	Rs. 1,28,450
Total	Rs. 51,55,803	Total	Rs. 51,55,803

1. THAT cash sales during the demonetization period 08.11.2016 to 30.12.2016 of Rs.5,44,804/- in new currency.

It is therefore requested to your honour kindly accept the Return figure and oblige.”

5. The A.O after considering the submissions of the assessee and documents filed by the assessee made an addition of Rs.10,42,500/- as unexplained money u/s. 69A of the Act, observing as follows:

“4.3 In response to this, the assessee neither complied with the same nor filed any submission in this regard. From the bank reconciliation, it is also noticed that assessee has purchased old Jewellery of Rs.30,19,771/- from customer by cash during F.Y. 2016-17. But assessee has riot furnished any details for cash purchase. During the demonetization period, the assessee has deposited cash amount of Rs.10,42,500/- (SBNs) in his bank account. The assessee has stated that the source of cash deposit is out of cash balance as on 08.11.2016 of approx Rs.13,30,000/- from Girvi received and retail cash sales. However, assessee could not submit any documentary evidence (Confirmation, PAN. Payments receipts. Bills) for the cash received from parties. The assessee has not proved the genuineness of the source of cash deposit. Further, it is also noticed that the assessee has not deposited any cash before the demonetization period (from 01.04.2016 to 08.11.2016.) in bank account. In absence of the documentary evidence, cash deposit of amount of Rs.10,42,500/- remains unexplained.

4.4. Considering the above facts and elaborate discussion made in preceding paragraphs, it is confirmed that, assessee could not explain and establish source & nature of the cash aggregating to Rs.1,42,500/- deposited in his bank accounts. Assessee has made cash deposits amounting to Rs.10,42,500/- in the F.Y. 2016-17 preceding the A.Y. 2017-18. He could not offer satisfactory explanation about the nature and source of these deposits, hence the value of deposits i.e. Rs.10,42,500/- is deemed as unexplained money u/s.69A of the Income Tax Act, 1961 and added to the total income of the assessee for taxation at the rate of 60% as provided u/s.115BBE.”

6. That being further aggrieved, the assessee carried the matter in appeal before the Ld.CIT(Appeals)/NFAC who had sustained the addition of Rs.10,42,500/- made by the A.O as unexplained money u/s.69A of the Act, observing as follows:

**“6. Adjudication:**

**6.1** I have carefully considered the facts of the case, assessment order, and written submissions made during the appellate proceedings. The appellant is a retail trader in claiming to earn income through sales and girvi operations. During the demonetization period (08.11.2016 to 30.12.2016), cash deposits of 10,42,500 were made into the bank account. It is an undisputed fact that no cash deposits were made from 01.04.2016 till 08.11.2016, and no cash book was produced during the assessment stage.

6.2 It is also on record that the assessee filed the return under Section 44AD, and in the course of assessment admitted:

"Proper Cash Book not maintain because Income Tax Return filed u/s.44AD of Income Tax Act, 1961 by the Assessee for FY 2016-17."

Subsequently, during appellate proceedings, the appellant produced a self-attested cash book without any corroborative evidence such as daily sale registers, customer-wise girvi receipts, vouchers, or third-party confirmations. Moreover, the sample bills produced were handwritten and lacked verifiability. The explanation now furnished does not rebut the findings made in the assessment order.

6.3 In view of the absence of contemporaneous records, non-maintenance of books during the relevant period, and failure to provide independent evidence to explain the nature and source of cash deposits during a sensitive period (i.e., demonetization window) the explanation offered is not satisfactory within the meaning of Section 69A.

6.4 Further, the statement claiming that cash sales deposited in a bank account, ii treated as unexplained under Sections 68 or 69A, cannot be taxed under Section 115BBE because the latter took effect from 01.04.2017 is factually

incorrect. Section 115BBE was explicitly inserted into the Income Tax Act with effect from 01.04.2013, as clearly stated in the legislation itself. This section specifically deals with the taxation of income referred to in Sections 68 and 69A, among others.

Therefore, if the Assessing Officer deems deposited cash sales as unexplained income or investment under these sections due to a lack of satisfactory explanation from the assessee, this income is indeed subject to taxation under Section 115BBE from Assessment Year 2013-14 onwards. The 01.04.2017 date relates to an amendment regarding the non-allowance of deductions under this section, not its initial applicability to unexplained income under Sections 68 and 69A.

6.5 Also, the rebuttal to each of the legal precedents cited by the appellant are as below:

6.5.1. Shree Sanand Textiles Industries Ltd. v. DCIT (ITA No. 1166/AHD/2014): In that case, books were maintained and verified. Here, no proper books were produced during assessment and self-attested cash book was filed only at appellate stage without corroboration.

6.5.2. CIT v. Vishal Exports Overseas Ltd. (Tax Appeal No. 2471 of 2009): This relates to double taxation of disclosed sales. In the current case, the cash sales are neither supported by regular books nor substantiated with evidence, hence cannot be equated.

6.5.3. Lakshmi Rice Mills v. CIT: This ruling applies when books are accepted and cash balance is clearly evidenced. Here, books were neither produced in time nor accepted; thus, the presumption under this ruling fails.

6.5.4. M. Wire Industries v. CIT (Delhi HC, IT Ref. No. 96 of 1989): This case involved accepted sales with proper books. Here, the appellant claimed to maintain no books u/s 44AD and produced a self-prepared cash book without supporting entries.

6.5.5. CIT v. Kailash Jewellery house (ITA 613/2010): That case accepted cash sales as they were corroborated by inventory and sale records. In this case, there is no supporting inventory trail, bill-wise reconciliation, or day books.

6.5.6. CIT v. Jindal Dyechem Industries Pvt Ltd (ITA 283/2011 & 343/2011): The judgment favors the assessee only where genuineness of sales is proven. In the present case no verifiable evidence of actual sale transactions was submitted.

6.5.7. Ramesh Kochar v. ITO (ITA No. 171/Del/2022): Consistency in prior years was key there. Here, no consistent pattern or evidence of cash sales during non-demonetization period (April to Nov 2016) was shown.

6.5.8. ACIT v. Hirapanna Jewellers (ITA No. 253Nizi2020): That ruling accepted cash deposits due to daily books, stock registers, and safes vouchers being maintained and verified. In the present appeal, no such verification is possible.

6.6 Accordingly, the addition of Rs.10,42,500/- made by the Assessing Officer as unexplained money u/s 69A is hereby upheld.

7. In the result, the appeal is dismissed.”

7. I have carefully considered the facts and circumstances on record and submissions of the parties herein. In this case, during the demonetization period (08.11.2016 to 30.12.2016), cash deposits of Rs.10,42,500/- were made into the bank account of the assessee. That further the fact reveals that no cash deposits were made from 01.04.2016 till 08.11.2016 and no cash book was produced during the assessment stage. The assessee had filed return u/s.44AD of the Act and in the course of assessment had admitted proper cash book not maintained because Income Tax Return filed u/s.44AD of the Act for F.Y.2016-17. During the appellate stage, the assessee had produced self-attested cash book without any corroborative evidence such as daily sale registers, customer

wise girvi receipts, vouchers or third party confirmations and only the sample bills produced which were handwritten and lacked verifiability. The only contention that has been made by the Ld. Counsel for the assessee at the time of hearing was nothing but reiterating the same submissions that have been made before the sub-ordinate authorities. It was also submitted by the Ld. Counsel that since the return was filed u/s. 44AD of the Act, there was no requirement to maintain books of account. In this regard, query was made by this bench that as to why they had furnished self-attested cash book before the Ld. CIT(Appeals)/NFAC, on which, there was no answer by the Ld. Counsel. That also it was queried by the Bench that what prevented the assessee for not submitting corroborative evidence like daily sale registers, customer wise girvi receipts, vouchers or third party confirmations before the department and on this aspect, the Ld. Counsel stated that since return was filed u/s. 44AD of the Act, they were not required to submit aforesaid documents before the department. That in absence of such corroborative evidence filed by the assessee and failure to provide the source of such cash deposits of Rs.10,42,500/- on the part of the assessee, the Ld. CIT(Appeals)/NFAC had upheld the addition as unexplained money u/s. 69A of the Act. That even before this bench, the assessee through his Ld. Counsel instead of giving any explanation simply submitted that since return was filed u/s. 44AD of the Act, they were not required to submit

any documents before the department for verification of any transaction. That considering the totality of the facts that the assessee had failed to file any documentary evidence either before the A.O or before the Ld. CIT(Appeals)/NFAC and had failed to show the source of cash deposits, therefore, I do not find any infirmity with the findings of the Ld. CIT(Appeals)/NFAC which is hereby upheld.

8. As per the above terms grounds of appeal of the assessee are dismissed.

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

Order pronounced in open court on 18<sup>th</sup> day of June, 2025.

Sd/-

**(PARTHA SARATHI CHAUDHURY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

रायपुर / Raipur; दिनांक / Dated : 18<sup>th</sup> June, 2025.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur