

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH MUMBAI**

BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

**ITA No. 1592/Mum/2025
(Assessment Year: 2017-18)**

Bhartiben Chandulal Dosani 502, Madhuban Apartment, Near Milan Apartment, Anjurphata, Kamtaghar, Bhiwandi – 421302.	Vs.	ITO, Ward 1(1) Kalyan.
PAN/GIR No. AIEPD1738L		
(Applicant)		(Respondent)

Assessee by	M/s. Neha Paranjpe
Revenue by	Shri Avinash Karpe, Sr.DR

Date of Hearing	01.05.2025
Date of Pronouncement	28.05.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 21.01.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2017-18.

2. All the grounds raised by the assessee are interrelated and interconnected and relates to challenging the orders of Ld. CIT(A) in upholding the additions made by AO u/s 69A of the Act. Therefore I have decided to

adjudicate these grounds through the present consolidated order.

3. I have heard the counsel for both the parties perused the material placed on record, judgement cited before me and also the orders passed by the revenue authorities. From the records, I noticed that assessee is earning income from household work, which includes trading of dress material, stitching and embroidery work, fall bidding, etc and offered income under income from other sources and had been regularly filing her return of income since A.Y 2002-03.

4. During the year under consideration, assessee deposited cash of Rs. 7,00,000/- in her savings account during demonetisation period. But revenue authorities made additions of this amount as unexplained deposits

5. However, in order to prove the source of the said deposits, the assessee filed details of her return of income of immediately previous five years and the details of which are mentioned here in below:

<i>A.Y</i>	<i>Date of filing of return</i>	<i>ITR Form</i>	<i>Total Income</i>	<i>Income earned through household activities</i>
2016-17	24.05.2016	ITR - 2	2,69,970	2,39,420
2015-16	28.10.2015	ITR - 2	2,93,800	2,63,250
2014-15	28.05.2014	ITR - 2	2,45,752	2,15,200
2013-14	05.06.2013	ITR - 2	2,02,600	1,83,787
2012-13	13.09.2012	ITR - 2	1,89,407	1,70,685

6. From the above table, it is evident that assessee is regularly filing her return of income since assessee is working from home therefore, it can be safely presumed that whatever money she is saving was in cash only.

7. However, the AO was of the view that to earn income shown by the assessee, then there must be turnover of at least Rs. 27,03,500/-. In this regard, the AO ignored the very fact that women's earning income in Indian society mainly comes income from their skills and in such activities, the normal business parlance of profit of 10% does not apply. In the Assessment order at para 5 (i) and (iii) the AO has categorically mentioned that assessee had filed ITR-2. And ITR-2 is not applicable for business income. In this regard, I am of the view that it is very common in Indian society that women not working outside and earning income from doing such small activities at home is not considered as 'business'. Thus she might have offered her income under Income from Other Source under genuine consideration of law. However even if in strict parlance of Law, if it has to be considered under Income

from Business, then it should not be overlooked that assessee had been regularly filing her return of income for more than fifteen years. And merely showing income under wrong head does not make the income source as 'unexplained'.

Reliance is being placed upon by the decision of Coordinate Bench in the case of **Smt. Uma Agarwal v/s. ITO 1(3) Gwalior, (ITA No.35/Agr/2021 A.Y.2017-18)**, wherein while deleting the additions made by AO on cash deposits made by the woman assessee, the Bench has mentioned:

"The family in which women (such as mother, wife, sister, daughter et al.) are full of sorrow that family meets its destruction very soon; while the family in which they do not grieve is always prosperous...." "From the ancient time, women in India are having special place in family and society. We have many woman as role model in Indian history to a name a few Mata Zizabai (Mother of Chaterpati Shivaji Maharaj), Ahaliya Bhai, Laxmi Bai, Phoole, Anne Besant, Captain Lakshmi Swaminathan (better known as Lakshmi Sahgal), of INA, though were house wife, but had contributed a lot as and when occasion so demanded. Further many housewives had even contributed by way of cash and jewelry during freedom movement...."

"On July 13, 1927, Mahatma Gandhi addressed a gathering at the Mahila Seva Samaja in Basavanagudi. Gandhi encouraged women to be change-makers and contribute to the Freedom movement and ITA 35/Agr/2021 9 Harijan Movement by donating their streedhan and other money. Similar call was given Former PM Pt Nehru, during 1962 war thereby calling on

the women of India to give their jewelry to the cause. Above said had been recorded here just to show that women in India were always saving some money for the family....."

"Before discussing this topic further, it is necessary to comment on its gendered nature. In India, according to the 2011 Census, nearly 159.85 million women stated that "household work" was their main occupation, as compared to only 5.79 million men...."

"The issue of fixing notional income for a homemaker, therefore, serves extremely important functions. It is a recognition of the multitude of women who are engaged in this activity, whether by choice or as a result of social/cultural norms. It signals to society at large that the law and the Courts of the land believe in the value of the labour, services and sacrifices of homemakers. It is an acceptance of the idea that these activities contribute in a very real way to the economic condition of the family, and the economy of the nation, regardless of the fact that it may have been traditionally excluded from economic analyses. It is a reflection of changing attitudes and mindsets and of our international law obligations. And, most importantly, it is a step towards....."

"Women (across socioeconomic groups) are often accompanied by male relatives who deal with banking officials to open a new bank account, make deposits, etc. on behalf of their female relatives. Documents carrying the name/signature of a father or a husband are often a requirement. Opening and operating accounts on mobile wallets requires mobile phones (preferably smartphones equipped with access to the internet) to begin with, which several women may not even own. Therefore, in essence, women require the consent of male relatives to access formal financial channels, whereas cash offers them a certain amount of independence...."

Women all over the country, had been accumulating cash that they had saved for themselves from household budgets, by haggling with vegetable sellers, tailors, grocers and assorted traders, years of stashing in whatever little cash gifts they received from relatives during festival times and years of

tucking away the change they found in the pants that they washed every day, however suddenly they were left with no option but to deposit the amount in the denomination of Rs 500 and Rs 1000 notes in the banks on account of Demonetisation scheme 2016....."

"In the present case the assessee had given the explanation to the AO during the assessment proceedings and had submitted that the amount deposited in the bank, were her money saved by her in last many year's and were kept by her, for herself and for the family in case of emergency need. However, this explanation was rejected by the AO on the pretext the assessee was not having income from any business. However assessing officer has not brought on record any document, evidence etc to show that the assessee was having any income from any other source other than saving from various activities mentioned elsewhere. Further no evidence had been brought on record, AO, in terms of press statement dated 18/11/2016 and SOP to established that the amount deposited in the account was not of the account holder/ assessee but of somebody else. In the light of the above when the AO had brought on record the evidence of proving that the money belongs to other person and not of the assessee, the amount deposited shall not added as income of the assessee....."

"we are of the opinion that the amount deposited by the assessee during the demonetisation. Cannot be treated as income of the assessee. Hence the appeal of the assessee is allowed"

In the case **Sunil Mathur V/s. ITO (ITA NO.660/J/P2019 A.Y.2014-15)** hon'ble ITAT Jaipur has mentioned as follows:

"Regarding various observations / objections of the Id. CIT(A), it was submitted that all the objections and observations of the

Id. CIT(A) are nothing more than suspicion and rather aimed to reject the contention in one way or the other...."

In the case **Nandkumar Taneja V/s. CIT (ITA NO.4958/Del/2018 A.Y.2015-16 & ITA No.4959/Del/2018)** hon'ble ITAT has mentioned as follows:

"Simply because after the period of demonetization, that is, 08.11.2016, certain amount of cash has been deposited in the bank account, it does not mean that cash-in-hand as on 31.3.2015 and 31.3.2016, duly shown in the balance sheet and disclosed to the department in the respective income tax returns filed much earlier, is unexplained...."

In the case of **Dhakeshwari Cotton Mills vs. CIT (1954) 26 ITR 775 (SC)** hon'ble Supreme Court has observed that a suspicion remains a suspicion unless the same is established and can never take the place of reality and for making addition/ assessment of the alleged income, it is for the AO to have proved beyond all reasonable doubts.:

"the Income-tax Officer is not fettered by technical rules of evidence and pleadings, and that he is entitled to act on material which may not be accepted as evidence in a court of law, but there the agreement ends; because it is equally clear that in making the assessment under sub-section (3) of Section 23 of the Act, the Income-tax Officer is not entitled to make a pure guess and make an assessment without reference to any evidence or any material at all. There must be something more than bare suspicion to support the assessment under Section 23(3)....."

8. Therefore taking into consideration the entire facts of the case and also considering the principles laid down by different judicial authorities it becomes very clear that no addition u/s. 69A can be made only on the basis of suspicion. And furthermore assessee has established her cash deposits were made from her savings of previous years income. Therefore addition of deposits as unexplained deposits stands deleted and the grounds raised by the assessee stands allowed.

9. In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 28.05.2025.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 28/05/2025

KRK, PS

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai