

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
and
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.3/DEL/2019
(Assessment Year: 2015-16)**

Brijesh Tiwari,
K-8C, Pipal Wala Road,
Mohan Garden, Uttam Nagar,
New Delhi – 110 059.

vs.

ITO, Ward 42 (5),
New Delhi.

(PAN : ACFPT3290C)

**ITA No.1747/DEL/2019
(Assessment Year: 2015-16)**

ITO, Ward 42 (5),
New Delhi.

vs.

Brijesh Tiwari,
K-8C, Pipal Wala Road,
Mohan Garden, Uttam Nagar,
New Delhi – 110 059.

(PAN : ACFPT3290C)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Smt. Rano Jain, Advocate
Shri Pranshu Singhal, CA
Ms. Mansi Jain, CA

REVENUE BY : Shri Ashish Tripathi, Sr. DR

Date of Hearing : 24.04.2025

Date of Order : 24.04.2025

ORDER

PER S.RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. These cross appeals are filed by the assessee and Revenue against the order of Id. Commissioner of Income-tax Appeals-14, New Delhi [hereinafter referred to as 'Id. CIT (A)] dated 04.12.2018 for Assessment Years 2015-16.
2. Since the issues are common and the appeals are connected, hence the same are heard together and being disposed off by this common order.
3. The relevant facts of the case are, assessee filed its return of income declaring total income at Rs.8,42,880/- on 15.09.2015. Subsequently, the case was selected for limited scrutiny through CASS for the reason of large unsecured loans, squared up loans and mismatch in import duty. Accordingly, notices u/s 143(2) and 142(1) of the Income-tax Act, 1961 (for short 'the Act') was issued and served on the assessee. In response, Id. AR of the assessee attended from time to time and furnished the relevant details as called for. Subsequently, the case was converted into complete scrutiny vide letter No.1086 dated 03.11.2017.
4. The assessee has disclosed business income from his proprietary concern, Braj Glass Company, business of trading of glass. During assessment proceedings, the AO observed that assessee has disclosed turnover of Rs.7,50,42,241/- in the books of account of Braj Glass Company but the total credit entries in the books of account maintained by the assessee for the year

are Rs.13,44,54,524/- out of which cash deposits are Rs.2,19,00,000/-. In this regard, assessee submitted the sources of cash deposits which are as under :-

- (a) Opening cash-in-hand : Rs.46,46,334/-
- (b) Cash deposited by sundry debtors : Rs.1,13,22,516/-
- (c) Cash sales made to customers : Rs.18,93,448/-
- (d) Cash deposited out of cash withdrawal : Rs.40,37,702/-

5. After considering the above submissions, the AO rejected the same with the observation that assessee neither furnished books of account backed with original bills and vouchers nor the assessee furnished details and confirmation from sundry debtors from whom assessee claimed to have received cash of Rs.1,13,22,516/- and also details/confirmation from customers, to whom assessee claimed to have made sales in cash of Rs.18,93,448/-. Further he observed that assessee failed to establish the genuineness of opening cash-in-hand and failed to furnish any explanation for the cash withdrawal and redeposit of the same. He rejected the same by observing that assessee failed to furnish any explanation for disclosing turnover of only Rs.7,50,42,241/- in the books of account whereas the total credit entries in the bank during year under consideration are Rs.13,44,54,524/-. Accordingly, he treated the cash deposit of Rs.2,19,00,000/- as unexplained credit u/s 68 of the Act.

6. Further AO observed that the total turnover of Rs.13,44,54,524/- out of which he has already confirmed the addition of cash deposit as undisclosed income to the extent of Rs.2,19,00,000/- and balance turnover of Rs. 11,25,54,524/- on which he observed that the profit declared by the assessee in its books of account is only 1.26% which is extremely low by any standard, accordingly he proposed a Net Profit rate of 3% which is, according to him, fair and reasonable. He proceeded to determine the same at Rs.33,76,635/-. Since assessee has already disclosed the net profit of Rs.9,44,258/-, hence difference of Rs.24,32,377/- was added as additional undeclared income from the business.
7. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT (A) and filed detailed submissions in support of the same. After considering the above submissions, Id. CIT (A) deleted the addition of Rs.2,19,00,000/- of cash deposits made during the year on merit as under :-

“10. On merits the assessee reiterated the submissions made before the assessing officer regarding cash deposits. As regards the cash deposit by Sundry debtors and the claim of cash sales made by the assessee, the assessee had given the same explanation before the assessing officer also and it filed reconciliation of sales with opening and closing balance of debtors vide letter dated 30th December 2017. During the appellate proceedings the appellant again filed the corresponding reconciliation which was furnished before the AO. Considering the same the assessee's explanation for cash deposited by Sundry debtors and the claim of cash sales is accepted as the corresponding receipts have already been credited in the profit and loss account of the current year and earlier years in case of opening balance of Sundry debtors. As regards the claim of opening cash in

hand the benefit of that is also allowed for the reason that assessee claims that the corresponding cash is shown in the audited books of accounts of the assessee. The assessing officer will therefore examine the balance sheet of the assessee as on 31st March 2014 and if it reflects cash in hand of Rs.46.46,334/- the corresponding addition shall stand deleted. However if the said figure is different, the credit shall be given only to the extent of amount appearing as cash balance in the audited balance sheet.

11. As regards the claim of cash deposited out of cash withdrawals the deposits are out of cash book of the assessee, which is a part of audited books of accounts. Therefore, the addition of Rs.40,37,702/- is deleted. In the result ground no. 6 is treated as allowed.”

8. Further with regard to enhancement of profit on the basis of estimation @ 3%, Id. CIT (A) after considered the detailed submissions of the assessee and sustained the estimation of profit @ 3% on the disclosed turnover of Rs.7,50,42,241/- instead of Rs.11,25,54,524/- made by the AO. The assessee was given part relief by sustaining the profit @ 3% by estimating the same on disclosed turnover and determined the estimated profit at Rs.13,07,009/-, further giving credit of profit already disclosed in the return of income, he sustained difference of profit of Rs.17,009/-.
9. Aggrieved with the above order, both Revenue and assessee are in appeal before us raising following grounds of appeal :-

“Revenue’s appeal (Revises Grounds of appeal)

1. On the facts and circumstances of the case and in law, Ld. CIT(A) has erred deleting the addition Rs. 2,19,00,000/- based on the reconciliation filed by the assessee without going into the merits of genuineness of facts mentioned therein.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting unexplained cash deposit of Rs.2,19,00,000/- shown to have been from the following sources, which had not been proved during the assessment proceedings :-

(i)	Opening cash in hand	: Rs.46,46,334/-
(ii)	Cash deposited by sundry debtors	: Rs.1,13,22,516/-
(iii)	Cash sales made to customers	: Rs.18,93,448/-
(iv)	Cash deposited out of cash withdrawal:	Rs.40,37,702/-

3. On the facts and circumstances of the case and in law Ld. CIT(A) has erred in taking turnover at Rs.7.50,42,241/-, in place of Rs.11,25,54,524/-, total credit entries of Rs.13,44,54,524/- less unexplained cash deposit of Rs.2,19,00,000/-.

4. On the facts and circumstances of the case & in 13:w, the Ld. CIT(A) has erred in reducing the business income to Rs.17,009/- from Rs.24,32,377/- despite the fact that the assessee had failed to submit a cogent explanation for low net profit rate.”

“Assessee’s appeal

1. On the facts and circumstances of the case, the order passed by the Learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad, both in the eye of law and on the facts.

2. On the facts and circumstances of the case, the Learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the order passed by the ld. A.O. is bad in law, as the same has been passed without proper service of the notice under section 143(2) of the Act.

3. On the facts and circumstances of the case, the Learned CIT(A) has erred both on facts and in law in confirming the action of the A.O. in rejecting the books of accounts of the assessee despite the same having been properly maintained by the assessee as per law.

4. On the facts and circumstances of the case, the Learned CIT(A) has erred both on facts and in law in confirming the action of the A.O. in arbitrarily estimating the net profit @3%, without there being any basis for the same.

5. On the facts and circumstances of the case, the Learned CIT(A) has erred both on facts and in law in confirming the addition to the extent of Rs.17,009/- made by A.O. by estimating the net profits.
6. On the facts and circumstances of the case, the Learned CIT(A) has erred both on facts and in law in confirming the addition of Rs. 12,90,000/- made by the AO on account of bank deposits.
7. On the facts and circumstances of the case, the Learned CIT(A) has erred both on facts and in law in confirming the above said addition despite the assessee bringing on record explanation and evidences to prove the source of the same.”
10. At the time of hearing, ld. DR of the Revenue submitted that the assessee is a trader in glass and submitted that the AO has found that there is huge credits in his bank accounts which shows that assessee has received deposit of Rs.13,44,54,524/- from his customers and assessee has disclosed only Rs.7,50,42,241/- as his turnover, therefore, there is huge undisclosed income in the books of account maintained by the assessee. Accordingly, AO rejected the books of account and after due analysis, AO observed that assessee has made cash deposit of Rs.2,19,00,000/- and the explanation submitted by the assessee which is reproduced in the assessment order which is not proper and not backed with proper evidences and explanations. He submitted that AO has rightly made the addition of Rs.2,19,00,000/- u/s 68 of the Act. Further submitted that the assessee has disclosed net profit of 1.26% of the turnover which is very low by any standard. Therefore, the AO and ld.

CIT (A) has rightly estimated net profit @ 3% of the turnover. He submitted that ld. CIT (A) has merely relying on the submissions of the assessee reduced the actual turnover of the assessee overlooking the fact that assessee has received Rs.13,44,54,524/- during the year. He objected to the same and prayed that actual undisclosed turnover and income of the assessee may be brought to tax.

11. On the other hand, ld.AR of the assessee submitted that assessee also raised objections on the addition of cash deposits in the hands of the assessee. She submitted that ld. CIT (A) has considered the detailed submissions made by the assessee and has appreciated the fact that assessee had opening cash-in-hand to the tune of Rs.46,46,334/- which is evident from the cash book submitted before him. Further assessee has demonstrated that during the year, assessee has received cash from its sundry debtors and actual cash sales to its customers to the tune of Rs.18,93,448/- which shows that assessee has actual cash receipt from the debtors and its customers. Further she submitted that assessee has submitted the details of cash withdrawals made during the year and she brought to our notice page 24 of the paper book in which assessee has explained the cash withdrawn during the year to the extent of Rs.1,11,59,000/- and redeposited the excess cash drawn from the bank of Rs.14,97,000/-. She submitted that assessee has already explained the source of cash deposit made during the year to the extent of Rs.2,19,00,000/-, in this

regard supported the findings of the Id. CIT (A). With regard to turnover, he submitted that the AO has merely considered the total receipts received during the year, however he overlooked the fact that the assessee has actually made turnover of Rs.7,50,42,241/- which was already disclosed in its books of account. Cash/cheque received during the year relates to turnover of previous assessment year. Therefore, she supported the findings of the Id. CIT (A) who has actually held the disclosed turnover as proper. However, she objected to the fact that Id. CIT (A) has proceeded to estimate the income @ 3% overlooking the actual profit earned by the assessee.

12. Considered the rival submissions and material placed on record. We observed that the AO has made the addition of Rs.2,19,00,000/- on the basis of cash deposit made during the year. However, it is brought to our notice that sources of cash deposit made during the year are as under :-

(a)	Opening cash-in-hand	: Rs. 46,46,334/-
(b)	Cash deposited by sundry debtors	: Rs.1,13,22,516/-
(c)	Cash sales made to customers	: Rs. 18,93,448/-
(d)	Cash deposited out of cash withdrawal:	<u>Rs. 40,37,702/-</u>
	Total :	<u>Rs.2,19,00,000/-</u>

13. The assessee has filed detailed cash deposits before Id. CIT (A) and also submitted in the paper book explaining that assessee has sufficient cash balance on 01.04.2014 to the extent of Rs.46,46,334/-, assessee has deposited

receipt from sundry debtors and cash sales during the year to the extent of Rs.1,13,22,516/- and Rs.18,93,448/- respectively. After considering the detailed submissions, we are inclined to accept the findings of the Id. CIT (A) that assessee has enough source of cash deposit from cash-in-hand and cash receipt from debtors and out of cash sales. Further we observed that assessee has submitted detailed chart indicating cash withdrawals made to the assessee to the extent of Rs.1,11,59,000/- out of which assessee has made the cash deposit of Rs.40,37,702/- out of cash withdrawals. After considering the detailed submissions brought on record, in our considered view, we do not see any reason to disturb the findings of the Id. CIT (A). Accordingly, ground raised by the Revenue is dismissed.

14. With regard to estimation of profit and enhancement of undisclosed turnover by the AO, we observed that AO has observed that assessee has total credit in its books of account to the extent of Rs.13,44,54,524/- and assessee has declared the turnover of Rs.7,50,42,241/- in its books of account. The AO only considered the total credits in the books of account and treated the same as total turnover of the assessee overlooking the fact that receipts may contain due of current turnover as well as previous year turnover, as such cannot be considered as turnover of the assessee. We observed that Id. CIT (A) appreciated the above facts and sustained only the disclosed turnover of Rs.7,50,42,241/-. Therefore, we are inclined to agree with the findings of the

- ld. CIT (A). Accordingly, the abovesaid ground raised by the Revenue is dismissed.
15. Coming to the question of estimation of profit, there is no ground raised by both the parties. Therefore, we dismiss the appeal filed by the Revenue.
 16. In the result, the appeal filed by the Revenue is dismissed.
 17. Coming to the appeal filed by the assessee, at the time of hearing, ld. AR submitted that assessee does not want to press Ground Nos.1 to 5, hence the same are dismissed as not pressed.
 18. With regard to Ground no.6, the relevant facts are, AO observed that assessee has made cash deposit of Rs.12,90,000/- in his saving bank account. Assessee has submitted the source of above deposits as cash withdrawal from the same account. Since assessee could not explain for what purposes these withdrawals were made and why they are redeposited. As no explanation offered by the assessee, AO proceeded to make the abovesaid addition as undisclosed income of the assessee.
 19. Aggrieved assessee preferred an appeal before the ld. CIT (A) and ld. CIT (A) dismissed the ground raised by the assessee with the observation that cash deposit is confirmed to the extent of Rs.12,90,000/- which is ultimately given telescopic effect to the profit estimated in his case.
 20. Aggrieved assessee is in appeal before us.

21. At the time of hearing, ld. AR submitted that the above cash deposit made in saving account of the assessee are nothing but business receipts received by the assessee and the same was deposited in his saving bank account and it should be treated as business receipt and proper credit may be granted.
22. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.
23. Considered the rival submissions and material placed on record. We observed that assessee has made cash deposit in his personal account and the same cannot be considered as business receipts and since assessee has not offered any explanation for such cash deposits in his saving bank account, therefore, we are inclined to sustain the same and dismiss ground no.6 raised by the assessee.
24. Ground No.7 is general in nature, hence not adjudicated.
25. In the result, the appeal filed by the assessee is also dismissed.
26. To sum up : both the appeals filed by the Revenue and assessee are dismissed.

**Order pronounced in the open court on this 24th day of April, 2025
after the conclusion of the hearing.**

**Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER**

**sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 24.04.2025
TS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI