



**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH "DB", JABALPUR**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND  
SHRI, NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No. 55/JAB/2024  
Assessment Year: 2017-18

<b>Balkrishna Grover</b> M/s. Hotel Indra Palace Mohan Talkies Road, Alfhart Ganj, Katni, Madhya Pradesh- 483501.	v.	<b>ITO, Katni</b> Room No.2, Ground Floor, ITO-1, Income Tax Office, Jabalpur Road, Katni, Madhya Pradesh-483501.
<b>PAN:ADBPG3313Q</b>		
(Appellant)		(Respondent)

Appellant by:	Shri Rahul Bardia, FCA		
Respondent by:	Shri Alok Bhura, Sr. CIT(DR)		
Date of hearing:	20	05	2025
Date of pronouncement:	30	06	2025

**ORDER**

**PER KUL BHARAT, VICE PRESIDENT.:**

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 22.02.2024 pertaining to the assessment year 2017-18. The assessee has raised the following grounds of appeal: -

*"1. The order passed by the Ld. CIT(A) is bad in law and facts, void ab initio and without jurisdiction.*

*2. The Ld. CIT(A) erred in law and facts of the case in sustaining the addition of Rs.11,64,838/- u/s 69A against cash deposited during the demonetization period.*

*3. The Ld. CIT Appeals erred in law and facts of the case in sustaining the order of Ld. AO in which sales has been estimated at Rs.7,34,79,976/- and net profit has been estimated @ 2% of Rs.14,69,599/- as against Rs.3,77,592/- shown by the appellant which resulted into addition of Rs.10,92,007/-.*

*4. The appellant reserves the right to add or amend any grounds of appeal."*

2. Briefly stated, facts are that the assessee is an individual filed his return of income on 07.11.2017, declaring total income at Rs.5,87,910/- for the year under appeal. The case was selected for scrutiny through Computer Assisted Scrutiny System (CASS) for the reason “Cash deposit during demonization period”. The assessee is engaged in the business of trading in Liquor and also runs a hotel. The hotel business was being carried for a long time but it was claimed that business of trading in liquor was started during the year under appeal. It was recorded by the Assessing Officer that during the year under consideration total turnover is declared at Rs.6,56,99,205/- with gross profit at Rs.24,50,595/- and net profit at Rs.3,77,592/-. The case was taken up for scrutiny assessment. Accordingly, statutory notices were issued to the assessee. During the course of assessment proceedings, the assessee was called upon to explain the source of cash deposited in his bank accounts held with State Bank of India and Punjab national Bank. In response thereto, it was stated by the assessee that the deposits were made out of sales made by him in cash. The AO treated the amount deposited in the form of demonetized currency as unexplained thus made addition of Rs.11,64,836/- u/s 69 of the Income Tax Act, 1961 (“Act”, for short) on this account. Further, the AO estimated net profit at 2% of the total turnover after having rejected the books of account u/s 145(3) of the Act. He made an addition of Rs.10,92,007/- being the difference between the net profit declared by the assessee and computed by AO. Therefore, the AO assessed income u/s 143(3) of the Act at Rs.28,44,765/-. Aggrieved by this, the assessee carried the matter in appeal to Ld. CIT(A) who dismissed the appeal *ex-parte* to the assessee. Now the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, the Ld. Counsel for the assessee has reiterated the submissions as made in the written submissions. He contended that the Ld. CIT(A) did not consider the facts in right perspective. The appeal was decided without giving adequate opportunity to the assessee. He contended that the assessee had in fact explained the source of cash deposits and facts of the case but by way of erroneous and unsustainable assessment order the impugned additions have been made. The Ld. CIT(A) passed an *ex-parte* order without adverting to the merits of case. He contended that in the interest of justice an opportunity be granted to the assessee.

4. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and supported the orders of the lower authorities. He drew our attention to the impugned order to buttress the contention that adequate opportunity was granted by the Ld. CIT(A). However, he fairly submitted that there was no decision on merits by the First Appellate Authority. He urged that the onus is on the assessee to explain the source of cash deposited in his both accounts. He contended a bald assertion that sales were made in cash is not sufficient to discharge the burden cast on him. He, therefore, submitted that the appeal be dismissed.

5. We have heard the Ld. Representatives of the parties and perused the material available on record. It is seen that the Ld. CIT(A) has dismissed the appeal without adverting to the grounds on merits of the case. It is well settled law that the First Appellate Authority is required to adjudicate on the merit of the impugned additions made by the Assessing Officer. It is also well settled that the assessee should be afforded adequate opportunity to

represent his case. Moreover, in the present case the assessee has been throughout stating that the cash deposits were out of sales made in cash by the assessee. We find that nothing is commented by AO on availability of stock and purchase made by the assessee. The AO undisputedly has adopted net profit at 2% of total turnover. Thus, admitting the factum of sales made by the assessee. Under these facts, in our considered view, Ld. CIT(A) ought to have examined all these aspects of the matter and decided the grounds raised by the assessee. Moreover, in this case, it was categorically contended on behalf of the assessee that the deposits as made in the aforementioned bank accounts was out of sale made in cash. Under these facts, we deem it fit and proper and to sub-serve the interest of principles of natural justice to set aside the impugned order and restore the grounds of the appeal to the Ld. CIT(A) for deciding the grounds afresh by giving clear finding on the grounds raised by the assessee by way of a speaking order. Needless to say that the assessee would provide all the information which is relevant and necessary for adjudication of grounds of appeal. Grounds raised in this appeal are allowed for statistical purpose.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 30/06/2025.

Sd/-  
[NIKHIL CHOUDHARY]  
ACCOUNTANT MEMBER

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

DATED: 30/06/2025

Vijay Pal Singh, (Sr. PS)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar  
ITAT, Jabalpur