

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual), JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND ANIKESH BANERJEE, HON'BLE JUDICIAL MEMBER

ITA No. 935/Jodh/2024
Assessment Year 2010-11)

Dwarika Jewellers Private Limited C/o. Shri Rajendra Jain, Advocate, 106, Akshay Deep Complex, 5 th B Road, Sardarpura, Jodhpur – 342001. PAN No. AACCD4169J		DCIT, Central Circle, Jodhpur.
Assessee by	Shri Rajendra Jain, Advocate, Smt. Raksha Birla, C.A. and Shri Mehul Jangid, Advocate	
Revenue by	Shri Karni Dan, Addl. CIT (DR)	
Date of Hearing	26.05.2025.	
Date of Pronouncement	26.06.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal by Assessee is directed against the order of Id. Commissioner of Income-tax (CIT Appeals), Jaipur 5 dated 24-10-2024 for assessment year 2010-11.

2. The assessee has raised following grounds of appeal:

1. That on the facts and in the circumstances of the case the the Ld CIT(A) grossly erred in upholding the validity of order passed by Id AO.
2. That on the facts and in the circumstances of the case the Ld CIT(A) grossly erred in upholding the legality & validity of notice issued u/s 148 of the Act.



3. *That on the facts and in the circumstances of the case the Ld CIT(A) ought to have quashed the order and notice issued by Id AO.*
4. *That on the facts and in the circumstances of the case the Ld CIT(A) grossly erred in sustaining the addition of Rs. 67,00,000/- in respect of cash deposits in bank account as unexplained cash credits u/s 68 of the Act.*
5. *That on the facts and in the circumstances of the case the Ld CIT(A) grossly erred in not appreciating the facts and evidences that cash deposits in bank are duly recorded and supported from evidences in right perspective and judicious manner.*
6. *That on the facts and in the circumstances of the case the Ld CIT(A) grossly erred in upholding the provision of section 68 of the Act.*
7. *That the petitioner may kindly be permitted to raise any additional or alternative grounds at or before the time of hearing.*
8. *The petitioner prays for justice & relief.*

2. The sole issue challenged by the assessee in multiple grounds is regarding sustaining the addition of Rs. 67,00,000/- by the Id. CIT (A) in respect of cash deposits in bank account as unexplained cash credits u/s 68 of the Act.

3. Facts as per record are that in rebuttal to facts narrated in the report of the ITO (I&CI), Jodhpur, the assessee had submitted that the cash deposits in its two bank accounts, were out of cash sales made during the F.Y. 2009-10 relevant to the A.Y. 2010-11. In support of the same, the assessee had submitted copies of sale bills but the ITO (I&C), Jodhpur, stated that the assessee had failed to submit complete sales bills in support of its claim, in the verification done by the ITO (I&CI), Jodhpur and hence, the ITO (I&CI) Jodhpur had forwarded the information to DIT (I&CI) Kolkata for further necessary action at his end and DDIT



(I&CI), Circle-I, Kolkata had further forwarded the information to the AO who had re-opened the assessment for A.Y. 2010-11 u/s 147 of the IT Act, 1961 after taking due approval of Ld. Pr. CIT-3, Kolkata. After the approval of the Ld. CIT-3, Kolkata, notice under section 148 was issued to the assessee concern on 29.03.2017 by the AO and the same was duly served upon the assessee concern. In response to the 148 notice, the assessee company filed its return of income on 18.04.2017 under section 148 along with preliminary details as sought for, vide aforesaid statutory notice. The AO being not satisfied with the reply of the assessee, had passed an assessment order u/s 143(3) r.w.s.147 of the I.T. Act, 1961 dated 30.12.2017 on the total income of Rs. 2,46,00,680/- by making the above addition of Rs.2,06,81,315/- by considering the unexplained cash credit within the meaning of section 68 of the I.T. Act, 1961.

4. Being aggrieved with the additions in the assessment, the assessee filed appeal before the Id. CIT(A) who has granted major relief to the assessee by observing and finding the contention of the assessee as correct that ICICI bank A/c No. 016705008298 was opened on 04.08.2009 and the mismatch entries were from 11.05.2009 to 03.08.2009 which were pertaining to the periods before the opening of the bank account number 16705008298 in ICICI bank. However, the Ld. CIT (A) has sustained an addition of Rs. 76,00,000/- made by



the AO u/s 68 of the Act, against cash deposited' in ICICI Bank Account No.167055007757 on 06.04.2009 & 19.05.2009 amounting to Rs.24,00,000/- and 43,00,000/- respectively being explained as per books of head office under the pretext of non -production of books of branch office in the assessment proceedings.

5. Heard the rival contentions, perused the material on record, impugned order and submissions. Admittedly, during the assessment proceedings, the assessee was asked to produce the Cash Book of the assessee company and the same was submitted before the AO. The branch wise cash book emphasizing that applicant company had regularly deposited the cash in the bank account situated at Jodhpur out of cash sales made by it were produced before the AO in the remand proceedings and appellate proceedings as well. The AO and CIT(A) had not doubted the cash deposited in the bank account situated at Jodhpur except two transactions as mentioned in the assessment order which are duly stands explained with support of VAT assessment order, and Sales register of Ahmedabad Branch in accordance with the business trend of cash sales done at Ahemdabad branch and Deposited in bank account at Jodhpur was being duly admitted by department in the turnover of crores of transaction of the assessee during this very relevant assessment year. In our view the Ld. CIT (A)'s mere



inference that the VAT order does not prove the justification for cash sales in Ahmedabad Branch and the deposit of the same cash at Jodhpur would not hold good because he has not controverted the documentary evidence filed by the assessee on record before him and the AO in the remand proceedings, and further he ought to have brought on record necessary corroborative evidence to reject the contention of the appellant.

6. In our view, the observation and finding recorded by authority below are contrary to facts as the cash book of the branch emphasizing that applicant company had regularly depositing the cash in the bank account situated at Jodhpur out of cash sales made by the assessee at its Ahmedabad Branch. During the appellate proceeding the Ld CIT(A) had called for remand report but the Ld AO without considering the cash book, nature of transactions and modus operandi of the business in right perspective rejected the contention of the assessee in arbitrary manner and in contradiction to their own view as the AO himself had accepted other cash deposits out of cash sales by the Ahmedabad Branch office at Jodhpur bank account as genuine.

7. The Hon'ble Madras High Court in the case of CIT v/s Shri Shaik Usman Ali on 14 February 2022, T.C.A. Nos 103 & 104 Of 2014 held as under:-



"7. The learned counsel for the Assessee has brought to the notice of this Court the decision rendered by this Court in T.C.A.No.1526 of 2007, dated 25.02.2015, relating to the same assessee (for the Assessment year 2001-2002), where under, relying upon the decision reported in 2013 (352) ITR 484 (Mad) (Commissioner of Income Tax vs. Sakuntala Devi Khetan , it has been held that the Assessing Officer has to adopt the figures and turn over finally assessed by the Sales Tax Authorities. This decision is binding upon the Revenue. Therefore, the contention of the Revenue that it has powers to tinker with the stock estimated by the Sales Tax Authorities cannot be accepted. Therefore, the appeal filed by the Revenue fails."

8. In the present case, the similar nature of transaction carried out by the branch office in the preceding assessment year i.e. 2009-10 with the total turnover of 105.48 Crores and out of total sales, the cash sales of Rs. 101.12 Crores at Ahmedabad Branch was also deposited in the bank account situated at Jodhpur and accepted by the Département. The copy of assessment order is filed on record. Thus, following the principle of consistency, the department ought to have accepted the cash sales as per accounts of the assessee except some major discrepancy was pointed out by the AO either in the books or statement of accounts of the assessee by way of controverting or disproving the documentary evidence filed by the assessee.



9. Considering the principles of consistency and factual matrix, we hold that the order passed by the Ld. CIT (A) is perverse to the facts on record in sustaining the addition u/s 68 of the act as unexplained money. Accordingly, the addition of Rs. 67,00,000/- is deleted.

10. In the result, appeal of the assessee is allowed.

Order pronounced on..26.../...06.../2025 under Rule 34(4) of Income Tax (Appellate Tribunal) Rules 1963.

- Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Dated : 26/06/2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

- Sd/-
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.

