

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&

SHRI ANIKESH BANERJEE, HON'BLE JUDICIAL MEMBER

I.T.A. No. 3939/Mum/2024

Assessment Year: 2017-18

Income Tax Officer - 26(2)(1), Mumbai	Vs	Salim Bros. 174, Saifee Mosque Roudat Tahera Street Maharashtra - 400003 [PAN: AASFS6187L]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	None
Revenue by :	Shri Arun Kanti Datta, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 16/07/2025

घोषणा की तारीख /Date of Pronouncement: 16/07/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the revenue is preferred against the order dated 10/06/2024 by NFAC, Delhi [hereinafter 'the CIT(A)'] pertaining to AY 2017-18.

2. The grievance of the revenue reads as under:-

"1. Whether on the facts and circumstances of the case and in law, the Ld CIT(A) was correct in allowing the appeal of the assessee without appreciating the fact that the assessee remained non responsive during the assessment proceedings as well as during remand proceedings also and did not submit any response, submission, clarification with respect to the additional evidence/details which were produced before the Ld. CIT(A) and due to non-responsive approach of the assessee the additional evidence/details remained unverified as well as correctness and genuineness of the transaction also remained unexplained.

2. The appellant craves leave to amend or alter or add a new ground which may be necessary.

3. None appeared on behalf of the assessee in spite of notices. Therefore, we decide to proceed *ex-parte*.

4. The Id. D/R was heard at length. Case records carefully perused.

5. Briefly stated the facts of the case are that the assessee filed its return of income and 06/11/2017 declaring total income of ₹ 3,01,270/-. The return was selected for scrutiny assessment under CASS on the issue of large value cash deposit in the bank account of the assessee amounting to Rs. 17,44,91,140/-. The cash was found deposited in the Bombay Mercantile Cooperative Bank Ltd., Null Bazaar, Mumbai. The assessee was asked to furnish following details:-

1. *Brief note on the nature of business/activities carried on by you and method of accounting employed by you for the assessment year under consideration.*

2. *Please furnish audited Profit & Loss account, Balance sheet/Capital Account along with schedules, Tax Audit Reports & annexure & computation of income for the F.Y. 2016-17, relevant to A.Y. 2017-18.*

1. *Furnish details of return filed for A.Y 2016-17, 2015-16 & 2014-15 e.g. Date of Filing of Return, Return Income declared, Mode of filing of return i.e. Manual or E-filing, Ward /Charge Number etc.*

2. *Please furnish details of all the bank accounts maintained by you individually/jointly along-with Bank Statements for the F.Y.2015-16, 2016-17 and 2017-18*

3. *Please produce Cash Book & stock register, if any, for the previous year relevant to the A.Y. 2016-17 and AY 2017-18.*

4. *Furnish the narration of each entry in your bank account for the period 01.04.2016 to 31.03.2017.*

5. *Furnish the details of cash deposits during the demonitization period*

6. *Furnish the source of cash deposits made during the demonitization period alongwith justification and corroborative evidence. details of cash deposits in your account.*

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7. Please submit the following details:

<i>Total cash deposit in Bank in the following periods</i>	<i>Bank Name & A/c No.</i>	<i>Amount (Rs.)</i>	<i>Details of denomination i.e. Rs 500 and Rs 1000</i>
F.Y 2015-16			
<i>01-04-2015 to 08-11-2015</i>			
<i>09-11-2015 to 31-12-2015</i>			
F.Y. 2016-17			
<i>01-04-2016 to 08-11.2016</i>			
<i>09-11-2016 to 31-12.2016</i>			

8. Please submit the following details in the given format: (If applicable)

<i>Total cash sales in the following periods</i>	<i>Amount (Rs.)</i>	<i>Details of denomination i.e. Rs 500 and Rs 1000</i>
F.Y 2015-16		
<i>01-04-2015 to 08-11-2015</i>		
<i>09-11-2015 to 31-12-2015</i>		
F.Y 2016-17		
<i>01-04-2016 to 08-11-2016</i>		
1. 1. 1. 31-12-2016		

9. Please furnish copy of 'Deposit Slip' along with denomination of notes, in respect of cash deposited during denomination period along with reasons for large cash deposits during the demonetization period.

10. Please furnish Copy of 'Withdrawal Slip' if withdrawal is done in cash otherwise the details of withdrawal by transfer/cheque/NEFT/RTGS etc, for period 09/11/2016 to 31/03/2017.

11. Please furnish the details of sundry debtors as on 01.04.2016 and 08.11.2016 in the following format(If applicable):

Sr. No.	Name of the Debtor	PAN of the Debtor	Outstanding Amount to be Recovered as on 01.04.2016	Outstanding Amount to be Recovered as on 08.11.2016

12. Please furnish the following details in the format given below;(If applicable):
Cash Loans Taken during the F.Y 2016-17 relevant to A.Y 2017-18:

Sr. No.	Name & PAN of Persons from whom Loans Received in Cash	Date of Loans received in Cash	Amount of Cash Loan(Rs.)

Loan Repayments received in Cash during the F.Y 2016-17 relevant to A.Y 2017-18:

Sr. No.	Name & PAN of Persons from whom loan repayments received in Cash during the year	Date of Loan repayments received in Cash	Amount of Loan repayment received in Cash (Rs.)

(c) Gifts received in Cash during the F.Y 2016-17 relevant to A.Y 2017-18:

Sr. No.	Name & PAN of Persons from whom Gifts received in cash during the year	Date of Cash Gifts	Amount of Gift received in Cash

Furnish copy of VAT return for the relevant F.Y. 2016-17, and if revised, reasons thereof and also provide copy of revised VAT return.

Please furnish details of moveable/immovable assets held by you individually /jointly."

6. The notice issued by the AO was returned undelivered by the postal authority. Another notice along with questionnaire was served to the assessee by way of e-mail on the email address given by the assessee. The assessee chose not to respond. Notice u/s 133(6) of the Act was issued to Bombay Mercantile Cooperative Bank Ltd., calling for bank statements for FY 2016-17 with KYC documents along with the contact details of the assessee. The bank provided the requisite details and on receiving no reply/explanation from the assessee, the AO was forced to frame order *ex parte* u/s 144 of the Act and since no plausible explanation was received, the AO made the addition of Rs.20,85,52,109/- being cash deposited in the Bombay Mercantile Cooperative Bank Ltd..

6.1. Assessee carried the matter before the Id. CIT(A) and contended that no notice was served as the assessee's shop went under redevelopment and was closed. The assessee also contended that the AO had assessed entire cash deposit as income u/s 69A of the Act. Before the Id. CIT(A), the assessee explained that the cash deposit was from the proceeds of sales of the edible oil of which he is a trader. In support of his contention, the assessee submitted the copy of Sales Tax Returns, the audit report, the VAT/ Sales Tax audit report, sample invoices and the bank statement. The Id. CIT(A) was convinced with the claim of the assessee in respect of the source of cash deposits and deleted the addition.

7. We have carefully perused the order of the Id. CIT(A). We find that some additional evidence were furnished before the Id. CIT(A) and

the ld. CIT(A) called for the remand report from the AO which was not received by the ld. CIT(A) and the appeal was decided. We are of the considered view that the ld. CIT(A) ought to have waited for the remand report as the assessment was *ex-parte* and the assessee had not furnished any details during the assessment proceedings.

8. Therefore, in the interest of justice and fairplay, we deem it fit to remit matter to the file of the AO. The assessee is directed to furnish all the necessary evidence in support of the source of cash deposit and attend the assessment proceedings properly. The AO is directed to verify the evidence and decide the issue afresh after affording reasonable and adequate opportunity of being heard to the assessee.

9. In the result appeal of the revenue is allowed for statistical purposes.

Order pronounced in the Court on 16th July, 2025 at Mumbai.

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 16/07/2025

S.S.P.

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

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

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai