

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)
&
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 226/PAT/2024
Assessment Year: 2017-2018**

***Santosh Kumar Keshri,.....Appellant
Shop No. 3, Jaiswal Market,
Sabji Mandi, Mithapur-800001, Bihar
[PAN:ASAPK1127E]***

-Vs.-

***Assistant Commissioner of Income Tax,...Respondent
DC/AC Circle-6, Patna-800001, Bihar***

Appearances by:

*Shri Supriya Sharma, C.A., appeared on behalf of the
assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

**Date of concluding the hearing: May 19, 2025
Date of pronouncing the order: July 28, 2025**

O R D E R

Per Duvvuru RL Reddy, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 29th November, 2023 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual and engaged in wholesale and retail trading of Raw Agricultural produce like ginger, Green Chilli, Raw Turmeric etc. since A.Y. 2015-16. The assessee has filed his return of income for AY 2017-18 on 25/10/2017 declaring total income of Rs 12,41,180/- under the head “profit and gains from business or profession” and “income from other sources”. The case was selected for Complete Scrutiny through Computer Assisted Scrutiny Selection (CASS) to verify the issue on “High Risk Transactions.” Accordingly, notice u/s 143(2)/142(1) of the I.T. Act was issued and the same was served upon the assessee on his registered mail through ITBA Portal as well as by speed post. There was no compliance to the notices issued. Thereafter, show cause notice was issued to the assessee for requiring him to furnish the information/documents/accounts details of cash deposited in bank account and source of cash deposited during the demonetization period, but no compliance was made by the assessee. The ld. Assessing Officer proceeded with best judgment assessment under section 144 of the Income Tax Act, whereas the assessee has already complied and submitted relevant documents. The ld. Assessing Officer levied huge tax of Rs.3,33,34,122/- after addition of deposits made during demonetization period and sundry creditors without going consideration the books of account, which was provided by the assessee. The Ld. A.O. has done another addition of Rs.58,62,495/- considering the figure of Sundry Creditors on the contention that figure has increased from Rs.65,987 (FY 2015-16) to Rs.58,62,495/- at the end of FY 2016-17 and treated the whole amount as bogus sundry creditors to the total income of the

assessee under section 68 of the Act. On being aggrieved, the assessee preferred an appeal before the 1st Appellate Authority.

3. The ld. CIT(Appeals) observed that the assessee failed to give any explanation before the ld. Assessing Officer about the nature of source of cash deposits during the demonetization period, which was deemed as unexplained money u/s 69A of the Income Tax Act, 1961 and, therefore, the ld. Assessing Officer added to the total income of the assessee. The total assessed income was taxed u/s 115BBE of the Act at the rate of 60%. He further observed that the balance sheet of the assessee shows that the figure of sundry creditors has been increased from Rs 65,987/- to Rs 58,62,495/- during the year under consideration. He further observed that the assessee has failed to provide the requisite details such as conformation, ledger account, bank statement etc in respect of sundry creditors, the total sundry creditors amounting to Rs 58,62,495/- was confirmed as bogus sundry creditors. The ld. CIT(Appeals) upheld the order passed by the ld. Assessing Officer.

4. On being aggrieved, assessee preferred an appeal before the ITAT in respect of following grounds:-

1. That the Ld. A.O. has added ₹ 58,62,495.00 against the figure shown as Sundry Creditors on the contention that figure has increased from ₹ 65,987.00 (F.Y. 2015-16) to ₹ 58,62,495.00 at the end of F.Y. 2016-17 and treated the whole amount as bogus Sundry Creditors to the total Income of the assessee under section 68 of the Act and the same figure of addition was upheld by Commissioner (Appeals).

The Assessee had provided the list of Sundry Creditors to the Ld. A.O. and the bank statements for the F.Y. 2016-17 and 2017-18 for verification of genuineness of the transactions along with ledgers of Sundry Creditors for both the financial years.

2. As per section 68, where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not satisfactory in the opinion of the A.O., the sum so credited may be charged to Income Tax as the income of the assessee of the previous year.

As assessee is explaining the figure of Sundry Creditors by providing the List of Sundry Creditors, Ledgers and Bank Statements for genuineness of the Sundry Creditors.

3. The Ld. A.O. had enquired for further evidence himself for the genuineness of the Sundry Creditors for third party confirmation, but that confirmation not done by respective Sundry Creditors.

We derive support from the decision “The omission on the part of the creditors to subject themselves to the enquiry initiated by revenue or their failure to furnish accounts could not lead to the conclusion that the creditors lacked identity, without any contradictions of the facts and particulars of the transaction between them furnished by the assessee being uncontroverted – CIT vs Chandela Trading Co. (P) Ltd | 2015 | 372 ITR 232 (Cal).”

As claimed by the assessee during the proceeding with Commissioner (Appeals) that the assessee is not acquainted with the laws and rules of the Act and was not in position to submit third party confirmation as enquired by the Ld. A.O.

The assessee is praying to consider additional ground of appeals for considering the genuineness of the figure of ₹ 58,62,495.00 shown as Sundry Creditors.

Additional ground of appeals for genuineness of Sundry Creditors:

1. As per Ld. A.O., The Sundry Creditors increased during particular F.Y. 2016-17 due to demonetisation as after demonetisation trend in business got changed, if figure of Sundry Creditors increased then this trend continued in upcoming financial years. Comparative chart for observations is as follows:

Financial Year	Closing figure of Sundry Creditors
2014-15	49,520.00
2015-16	65,987.00
2016-17	58,62,495.00
2017-18	49,83,189.00
2018-19	36,36,707.00

As per above chart, it can be observed that after all the financial years of demonetisation, trend in business changed and purchases in credit terms continued in upcoming years.

Financial Year	Creditors Turnover ratio
2016-17	25.96

2017-18	31.64
2018-19	53.18

Note : Formula Applied

*Creditor Turnover Ratio = Net Credit Purchases divided by
Total Trade Creditors*

It can be observed from the above comparative chart that the figure of Sundry Creditors kept increasing year by year and after demonetisation the trend of credit purchases continued by the assessee.

2. The assessee is praying to allow to submit third party confirmation during the proceedings as assessee has requested its creditors to provide the same.

3. That for reasons recorded in writing with this reply, the said impugned assessment order is bad and against the law of the land and the addition of ₹ 58,62,495/- is bad in the eye of the law and fit to be deleted/set aside for proper computation afresh, if needed.

4. That since there was no circumstances that lead to addition under sections 68 therefore, initiation of penal proceeding under section 271AAC(1) wherein there was nothing on record to prove that any addition under section 68 can be done, is unfair and harsh and not equitable in law, hence liable to be set aside.

5. That the assessee reserves his right to urge any other ground, submission and or citation circulars/notifications/judicial or quasi-judicial pronouncements/judgements etc. at the time of further hearing and We pray for the admissibility of it with your learned self's permission.

6. That under the facts and circumstances stated above read with the appeal, the present appeal is fit to be allowed for the ends of justice.

It is, therefore, humbly prayed that under the abovementioned facts and circumstances and the additional ground of appeal may be read with the grounds of appeal with the facts of appeal for proper adjudication of the matter and accept the same and allow the appeal for the ends of justice.

5. We have heard both the sides. At the time of hearing, it was the submission of the ld. Counsel for the assessee that the ld. CIT(Appeals) dismissed the appeal of the assessee without considering the merit of the case and just upheld the order of ld.

Assessing Officer. Therefore, the Id. Counsel pleaded to set aside the orders passed by the revenue authorities.

6. On the other hand, it was the submission of the Id. Departmental Representative that during the year under consideration, the assessee was asked to furnish the source of each deposit along with documentary evidence, copies of returns of income, computation of income, details of all bank accounts, books of accounts such as cash book, ledger, bank book etc. It was the submission of the Id. D.R. that at the time of assessment proceedings, there was no response from the appellant and no details were filed inspite of notices issued by AO. In the absence of any satisfactory compliance and gross disregard to the law of land by the appellant, the Assessing Officer completed the assessment u/s 144 to the best of his judgement on the basis of the material available on record and cash deposited during the period of demonetization was treated as unexplained credit u/s 68 of the IT Act and added to the total income of the assessee. The Id. CIT(Appeals) dismissed the appeal of the assessee by upholding the order of Id. Assessing Officer. Therefore, the Id. D.R. pleaded to uphold the orders of revenue authorities.

7. We have perused the material available on record. During the course of appellate proceedings, it was noticed from the assessment order that the assessee deposited cash of Rs 2,64,95,200/- in his bank accounts maintained with Bank of Baroda during the demonetization period. From the record, we find that the assessee was asked to furnish the source of each deposit

along with documentary evidence, copies of returns of income, computation of income, details of all bank accounts, books of accounts such as cash book, ledger, bank book etc. at the time of assessment proceedings but there was no response from the appellant and no details were filed inspite of notices issued by AO. In the absence of any satisfactory compliance and gross disregard to the law of land by the appellant, the Assessing Officer completed the assessment u/s 144 to the best of his judgement on the basis of the material available on record and cash deposited during the period of demonetization was treated as unexplained credit u/s 68 of the IT Act and added to the total income of the assessee. Details of creditors were specifically asked for vide notice dated 22/11/2019 & 02/12/2019 but not produced before the ld. Assessing Officer. A list of creditors was provided vide submission dated 06/12/2019 but no confirmation/confirmed account from parties were provided. Since, the same have still not been provided; these credits were rightly treated as unexplained and assessed u/s 68 of the IT Act by the AO. The ld. CIT(Appeals) dismissed the appeal of the assessee for not getting any supporting evidence in support of assessee's claim.

7.1. Before us also, the ld. Counsel for the assessee at the time of hearing in support of his argument did not produce any evidence as asked by the ld. Assessing Officer as well as ld. CIT(Appeals) at the time of assessment proceedings as well as appellate proceedings. The ld. Counsel on behalf of the assessee cited the judgment of the Hon'ble Supreme Court in the case of Uma Nath Pandey -vs.- State of U.P. reported in AIR SC 2375, which is not

applicable in the present case since the assessee has not filed any documentary evidence to substantiate his source for cash deposits and also sundry creditors. Therefore, by considering the totality of the facts and circumstances of the case, we are of the view that the ld. CIT(Appeals) has rightly upheld the order of ld. Assessing Officer as the assessee failed to furnish the source of each deposit along with documentary evidence, copies of returns of income, computation of income, details of all bank accounts, books of accounts such as cash book, ledger, bank book etc. We, therefore, dismiss the appeal of the assessee by upholding the order of ld. CIT(Appeals).

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 28/07/2025.

Sd/- (Sanjay Awasthi) Accountant Member	Sd/- (Duvvuru RL Reddy) Vice-President (KZ)
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Kolkata, the 28th day of July, 2025

- Copies to :* (1) *Santosh Kumar Keshri,*
Shop No. 3, Jaiswal Market,
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- (3) *Commissioner of Income Tax (Appeals),*
NFAC, Delhi;

- (4) CIT - ;
- (5) *The Departmental Representative;*
- (6) *Guard File*

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By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.