

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.3203/Del/2024  
Assessment Year: 2017-18

Manish Jain,  
43/3, U.G. Floor,  
East Patel Nagar,  
New Delhi – 110 008.

Vs ITO,  
Ward-50(1),  
New Delhi.

PAN: ABLPJ6377R

(Appellant)

(Respondent)

|                       |  |
|-----------------------|--|
| Assessee by           | : Shri Sanjay Kumar, CA; &<br>Shri Akarsh Garg, Advocate |
| Revenue by            | : Shri Dheeraj Kumar Jain, Sr. DR                        |
| Date of Hearing       | : 17.07.2025   |
| Date of Pronouncement | : 31.07.2025   |

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order dated 14.06.2024 of the Commissioner of Income-tax (Appeals), NFAC, Delhi (hereinafter referred to as the Ld. First Appellate Authority or 'the Ld. FAA', for short) in Appeal No.CIT(A), Delhi-17/10387/2019-20 arising out of the appeal before it against the order dated nil passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the ITO, Ward-50(1), Delhi (hereinafter referred to as the Ld. AO).

2. On hearing both the sides, we find that in the case of the assessee, for the reason of abnormal increase in cash sales and cash deposit during demonetization period, the assessment was initiated. The assessee, during the year, was engaged in distribution of jewellery. The AO has questioned the deposits of cash in the demonetized currency and made the addition of Rs.75 lakhs u/s 68 which have been sustained by the Id.CIT(A) and the relevant findings of the Id.CIT(A) in para 4 are reproduced below:-

*“4. I have carefully examined the assessment order, the grounds of appeal and the appellant written submission in the case. It is noted from the assessment order that the assessing officer having due consideration to the cash sales made on 08/11/2016 in the aftermath of demonetization announcement and considering the time frame within which such huge cash sales were made without having any identity of the customers, questioned the feasibility of such an high volume of transaction in few hours and also considering the appellant offer of 15% of the cash sales as unexplained cash, proceeded to estimate the same at 30% of the total cash sales claimed. On the other hand, the appellant had argued that the cash sales made were genuine out of the regular stock in trade maintained in the business for which regular VAT returns have been filed. The appellant also argued that the assessing officer could not point out any discrepancy in the books of accounts and no books of accounts have been rejected to proceed to estimation. It is to be noted that the appellant case was picked up for scrutiny to examine the huge or abnormal cash deposit in the bank accounts during demonetization. Accordingly, the assessing officer has gone into the nature and source of the cash deposits. In response to the same the appellant explained that the cash deposits have been made out of cash sales made on the announcement of demonetization as there were huge demand from the customers to exchange their demonetised notes in the late hours of 08/11/2016. It is to be further noted that the appellant himself during the proceeding offered to admit 15% of the cash deposits as unexplained cash and considering the test of human probability i.e., the impossibility of making such a huge sale within a short span of time in the night hours of 08/11/2016, the assessing officer has estimated the unexplained cash at higher rate of 30% of the total cash deposits. In addition to the above, I have to note that the claim of cash sales has been made without having any identification of customers and the appellant had reason for excuse that cash sales below Rs.2,00,000 doesn't have mandate to have PAN & Identity of customers and it was also impossible to collect*

*the same due to heavy rush of customers. The lack of customer record makes the cash sale claim unverifiable even on random test check basis. Further, the appellant cites sufficient stock in hand out of the opening stock and purchases made towards the cash sales claimed. Given the huge buffer of stock maintained by the appellant year after year, which can cushion any trade manipulation, the appellant reliance on stock position may not be plausible to explain the alleged cash sales. The appellant claims to have engaged in sale of jewellery in exchange for the demonetised currency on the late hours of 08/11/2016 after the demonetisation announcement which would mean that the appellant had aided the customers in laundering their unaccounted money.*

*In the above circumstances and considering the fact that the appellant himself has offered to admit 15% of the cash deposited as unexplained cash credits, I do not find any merit in the appellant case and confirm the addition of Rs.75,00,000 made by the assessing officer and the appellant grounds 2,3 & 4 are dismissed. Further, the assessing officer is directed to reduce the sales of Rs.75,00,000 and add the corresponding stock to the closing stock and re-compute the profit of the jewellery trade, which would mitigate the double taxation as contented by appellant.”*

3. The assessee has raised the following grounds including an additional ground:

The Main Grounds:

*“1. That the Ld. A.O. grossly erred in making addition of Rs. 75,00,000/- by treating 30% of cash deposited generated out of cash sales as unexplained without rejecting books of accounts or without confronting to the assessee the “defects” in the books of accounts and “material or evidence or the basis of estimations”. In the present case, the Ld. A.O. without rejecting books of accounts or pointing out any specific defect considered a part of trading receipt as unexplained under section 68.*

*2. That the addition made being the cash receipts represent the sales were already been offered to taxation, therefore, making addition u/s 68 of the Act has resulted in double taxation on the assessee.*

*3. That the Ld. A.O. grossly erred in making addition as all the cash sales are duly supported by the audited books of accounts, sales bills and DVAT returns. Also, the stock position shown in the books of accounts have also been accepted by the A.O. and there is no allegation on the assessee of non-availability of stocks. Further, the assessee has not revised any VAT return*

*pertaining to financial year 2016-17 and all the sales reported in the VAT returns are tallied with the books of accounts.”*

The Additional ground:

*“4. Without prejudice demand computed in accordance with rate specified in section 115BBE of the Act as amended by Taxation Laws (Second Amendment) Act, 2016 is wholly misconceived.”*

4. The ld. DR has heavily relied the orders of the ld. tax authorities below and has submitted that the assessee himself has admitted offering 15% and no additional income was admitted during the year. The ld. AR, on the contrary, submitted that when offer of 15% was rejected on ad hocism additions could not have been made and sustained by the ld. tax authorities below. It was submitted that all relevant evidences were filed and without rebutting the same order is passed.

5. After taking into consideration the material before us, we find that primarily, the AO has doubted the sales of Rs.2,40,00,000/- to 135 customers in one day and also considered that the assessee has admitted that sale to the extent of 15% may be treated as unexplained and went on to hold that 30% of the total deposits of Rs.2,50,00,000/- which comes to Rs.75 lakhs is treated as unexplained cash deposits and Rs.1.75 crore were attributed to deposits out of cash sale.

6. On going through the impugned assessment order and order of the ld.CIT(A), we find that the assessee’s evidences in the form of financial

statements and the VAT returns have not been analysed in any manner and on broad proposition alone the ld. tax authorities have made and sustained the additions. We are of the considered view that when assessee's stock-in-trade and VAT returns have not been disputed by any discrepancy or falsehood, then, merely on assertion that the assessee's attempt to take benefit of cash sales could not have been doubted. At the same time, when the assessee does not dispute the fact of 15% of the cash sales were offered for addition, then, without retracting from the same on substantive evidence and justification the assessee cannot alleged that once 15% offer was rejected, the AO could not have made ad hoc disallowance of 30%.

7. In the light of the aforesaid, we are of the considered view that if the ld. tax authorities did not intent to dispute the assessee's claim on the basis of the books of account and stock, then, they should have accepted the assessee's offer that 15% may be considered to be unaccounted sales. Accordingly, the appeal of the assessee is allowed partly. The impugned addition is restricted to Rs.37.5 lakhs.

Order pronounced in the open court on 31.07.2025.

Sd/-

(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Dated: 31<sup>st</sup> July, 2025.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi