

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH: BANGALORE**

**BEFORE Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1372/Bang/2025
Assessment Year: 2017-18

Sri Kushal Krishna Gowda, 846, 1 st D Main, 9 th Block, Nagarbhavi 2 nd Stage, Bengaluru-560072. PAN NO : CGJPK2407A	Vs.	The Income Tax Officer, Ward-3(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sunaina Bhatia, Advocate
Respondent by	:	Sri Ganesh R Ghale, Advocate-Standing Counsel for Revenue

Date of Hearing	:	20.08.2025
Date of Pronouncement	:	21.08.2025

O R D E R

PER Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER:

This is an appeal filed by Sri Kushal Krishna Gowda against the order of the Learned Commissioner of Income Tax (Appeals) (NFAC) (in short "Ld. CIT(A)") passed U/s. 250 of the Income Tax Act, 1961 (in short "the Act") for Asst Year 2017-18 on 17/01/2025 emanating from Assessment Order dated 06/12/2019 passed U/s. 143(3) of the Act.

2. The assessee has raised the following grounds of appeal:
 - “1. *The orders of the below insofar as they are against the appellant, are opposed to law equity, weight of evidence, probabilities facts and circumstances of the case.*
 2. *The Ld.CIT(A) is not justified in upholding the addition of Rs. 15,06,000/- out of the addition of*

- Rs. 27,58,000/- made in respect of the cash deposits made in the bank account during the period of demonetization treating the same as unexplained money U/s. 69A of the Act under the facts and circumstances of the appellant's case.*
3. *The addition sustained by the Ld. CIT(A) U/s. 69A of the Act is opposed to law and facts of the appellant's case in as much as, the appellant has proved the source of the cash deposits made with reference to the cash book maintained in normal course of business and regular sales of liquor that is the source of the said cash deposits made in the bank account and hence, the provisions of section 69A of the Act have no application at all.*
 4. *The Ld. CIT(A)/NFAC ought to have appreciated that the appellant had offered the sales made as income and the same was also accepted as part of the business income assessed for the year under appeal and therefore, the same cannot be treated as unexplained money for the purpose of section 69A of the Act to make the impugned addition.*
 5. *The Ld. AO is not justified in invoking the provisions of section 115BBE and taxing the aforesaid addition made at the rate of 60% under the facts and in the circumstances of the appellant's case.*
 6. *Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denied himself liable to be charged to interest U/s. 234A and 234B of the Act, which under the facts and circumstances of the appellant's case deserves to be cancelled.*
 7. *For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for refund of the institution fees as part of the costs."*

3. **Submissions of the Ld. AR:**

The Ld. AR filed a paper book containing 139 pages. The Ld. AR submitted that the assessee is in the business of running Bar and Restaurant. Assessee's books of accounts are audited. The

assessee's case was selected for scrutiny on account of cash deposits during the demonetization period. The assessee had made elaborate submissions during the assessment proceedings explaining the source of cash deposits. The assessee explained that the assessee's source of cash deposits is the sale proceeds of liquor. The assessee had filed copy of cash book, copy of purchase register, copy of the sales register, copy of VAT returns during the assessment proceedings. However, the Assessing Officer without referring to any of the documents, made an addition of Rs. 27,58,000/- on account of cash deposits. The Ld. AR submitted that the order of the Ld. AO is bad in law and hence, the addition shall be deleted. The Ld. AR in rebuttal submitted that the assessee had not accepted the addition of Rs. 15,06,000/-. The Ld. AR invited our attention to the letter of the assessee which is reproduced by the Ld. CIT(A) wherein it is clearly stated that without prejudice if at all the addition is to be sustained then it should be only Rs. 15,06,000/- however, in the said letter the assessee has clearly stated that the entire cash was explained and hence there should not be any addition.

4. **Submissions of the Ld. DR:**

The Ld. DR read out the order of the Ld. CIT(A) and submitted that the Ld. CIT(A) has given partial relief. The Ld. DR also stated that before the Ld. CIT(A), the assessee made a submission that the

addition should be restricted to Rs. 15,06,000/- only. Therefore, the Ld. DR submitted that the Ld. CIT(A) as upheld of Rs. 15,06,000/-.

5. **Findings and Analysis:**

We have heard both the parties and perused the records. In this case, the assessee is an individual and had filed the return of income for Asst. Year 2017-18 on 04/10/2017 declaring a total income of Rs. 69,600/-. Thereafter, the case was selected for scrutiny on account of cash deposits of Rs. 27,58,000/-. The Assessing Officer viz., ITO, Ward-3(2)(1), Bangalore passed a cryptic order. The relevant paras 3 and 4 of the assessment order are reproduced here as under:

“3. The assessee furnished the details called for. It is found from the details submitted by the assessee that the assessee has deposited an amount of Rs. 27,58,000/- in cash during the demonetization period for which the assessee has stated that he could not furnish he details of the denominations of notes deposited in the bank accounts. The assessee has stated that the cash deposits are out of sale of liquor. However, the assessee has not stated that he did not sell liquor in his bar in exchange for SBNs (Specified Bank Notes). As the assessee was not allowed by the government and RBI rules to accept SBNs as valid money in exchange for sale of liquor and as the assessee could not furnish the bifurcation of the note deposited during the demonetization period, the entire amount of Rs. 27,58,000/- deposited in cash into two bank accounts is treated as unexplained cash deposits and added to the assessee’s total income U/s 69A of the Income Tax Act, 1961. The assessed income of the assessee is Rs. 28,27,600/-.

4. The assessment is concluded as under.”

6. Thus, the Ld. Ld. AO has made an addition of Rs. 27,58,000/- only on the ground that the assessee could not furnish

the bifurcation of the currency notes deposited during the demonetization period and the assessee was not allowed to accept the Specified Bank Notes (SBNs).

7. The Ld. CIT(A), after considering the cash book of the assessee, restricted the addition to Rs. 15,06,000/-.

8. We have perused the paper book filed by the assessee. It is observed that at Page Nos. 38 to 40 is the submission made by the assessee during the assessment proceedings before the ITO. As per the said submission, there is no cash deposit made by the assessee during the demonetization period of SBNs. The relevant table submitted by the assessee is reproduced here as under:

Sl No	Name and address of the bank with branch	Account No.	Total cash deposit from 9 th November, 2016 to 31 st Dec. 2016 in old 500 and 1000 rupees notes.	Total cash deposit from 9 th Nov. 2016 in other currency notes (Rs.)	Total cash deposit from 9 th Nov. 2016 to 31 st Dec (4 + 5) (Rs.)
1	2	3	4	5	6
1.	State Bank of Mysore Current A/c, Peenya Industrial Estate Branch, Bangalore	64194272114		31,42,000	31,42,000
2.	Corporation Bank, S.C Road, Branch Bangalore	01/0144001010 45892		1,34,000	1,34,000

9. The assessee had explained that cash deposits made are out of the sale of liquor which is the business of the assessee. Before the Ld. AO, the assessee had submitted a copy of cash book,

details of daily sales, copy of purchase and sale register, copy of license for sale of liquor and other documents.

10. We have already reproduced the cryptic assessment order where the Assessing Officer has not discussed anything about the submission made by the assessee. The Ld. AO has given an incorrect finding that the assessee has not provided the details of old currency notes deposited in the bank. However, it can be observed from the submission of the assessee dated 04/11/2019, which we have already reproduced above, that the assessee has provided the details and there are no deposits of old currency notes by the assessee as per the chart filed by the assessee. These things have not been rebutted by the Ld. CIT(A) or Ld. AO. The Ld. CIT(A) has stated that the assessee himself stated that the addition should be restricted to Rs. 15,06,000/-. However, again this statement is factually incorrect. The Ld. CIT(A) in his order has reproduced the entire submission of the assessee and after reading the entire submission of the assessee, one can understand that in the last paragraph the assessee had made a without prejudice submission. Therefore, that does not mean that the assessee had accepted the addition of Rs. 15,06,000/-. We have perused the sales register and cash book and noted that there were cash sales during the period and the amount pertains to the cash sales. In these facts and circumstances of the case, there is no merit in the addition sustained by the Ld. CIT(A). Accordingly, we direct the Ld.

Ld. AO to delete the entire addition of Rs. 27,58,000/-. Accordingly, Grounds No. 2, 3 and 4 raised by the assessee are allowed.

11. Ground No.1 is general in nature and therefore it need no adjudication as we have already allowed the appeal on merits.

12. Ground No.5 is regarding applicability of section 115BBE of the Act. Since we have directed the Ld. AO to delete the addition, adjudication of Ground No.5 becomes academic in nature.

13. With respect to Ground No.6, since we have directed the Ld. Ld. AO to delete the addition, the adjudication of Ground No.6 becomes academic in nature.

14. In Ground No.7, the assessee has pleaded that the cost may be levied. We do not intend to levy any cost on the Ld. Ld. AO / CIT(A). Accordingly, Ground No.7 raised by the assessee is dismissed.

15. In the result, appeal of the assessee is partly allowed as indicated herein above.

Order pronounced in the open court on 21st August, 2025

Sd/-
(Prakash Chand Yadav)
Judicial Member

Sd/-
(Dr. Dipak P. Ripote)
Accountant Member

Bangalore,
Dated 21st August, 2025.
OKK/SPS

Copy to:

1. The Applicant
2. The Respondent

3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**