

IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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

**I.T.A No.381/Jodh/2025**  
(Assessment Year: 2017-18)

<b>SanwalaRam Choudhary,</b> Thiruvananthapuram Shri Gayathri Mobiles, T.C. 28- 1569-9, Kamala Buildings, Pzhavangandi, Thakaraparambu- Vanchiyoor Road, Fort PO, Thiruvananthapuram-695 023 <b>PAN : AOVPC7882H</b>	vs	<b>ITO, Ward-1, Jalore</b> Income-tax Office, Shivaji Nagar, Jalore-343 001
Present for Assessee	Shri Rajendra Jain, Advocate	
Present for Revenue	Shri Brij Lal Meena, Addl. CIT-DR	
Date of hearing	18/08/2025	
Date of pronouncement	22/08/2025	

**ORDER**

**Per Bench:**

The instant appeal of the assessee was filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld.CIT(A)'], order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for A.Y. 2017-18, date of order 14/03/2024. The impugned order emanated from the order of the Learned Income-tax Officer, Ward-1, Jalore (for brevity, the "Ld. AO"), order passed under section 144 of the Act, date of order 21/12/2019.

2. The brief facts of the case are that the assessee is engaged in wholesale and retail trading of mobile accessories, in the name & style "Gayathri Mobiles" at Thiruvananthapuram District, in the state of Kerala. The assessee filed the return in pursuance to notice under section 142(1) of the Act issued on 27/12/2017. The assessee failed to submit the return under section 139(1) of the Act for the impugned assessment year. The assessee declared total income of Rs.8,70,900/- in relation to turnover of Rs.5,06,91,098/- during the impugned assessment year. The Ld.AO found that during the demonetisation period, the assessee deposited cash in bank account amount to Rs.62,21,480/-. Without finding any details related to deposit of cash in SBN on the basis of assumption, the Ld.AO added back the amount of Rs.62,21,480/- with the total income of the assessee. The aggrieved assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) accepted that the Ld.AO had not found any specific fault in respect of deposit in SBN in the bank account. Secondly, there is no change in the turnover during the months relevant to the period of demonetisation. The assessee maintained the same turnover during the demonetisation period also. Therefore, the Ld.AO had not rejected the books and no discrepancy was found in purchase or in stock of the assessee. Considering this, on suo motu basis, the Ld.CIT(A) deleted the addition of Rs.31 lakhs and the rest of the addition was sustained. Being aggrieved, the assessee filed an appeal before us.

3. The Ld.AR stated that the turnover for November and December including tax is Rs. 81.53 lakhs (Rs. 48.56 + Rs, 32.97) and the collection from customers including bank receipts for the said two months is 121.83 Lakhs. The customers who were not prompt in their payments and have started making

payments immediately after the announcement of demonetization. Since the above said period being demonetisation period the assessee had to deposit all the cash in hand including his own personal savings into the bank accounts as directed by the Reserve Bank of India. The amount deposited in cash during the above two months is only Rs. 61.2 lacs whereas the turnover including tax is Rs. 81.53 lakhs, which is more than 20 lakhs of cash deposited and whereas the collection from customers is Rs. 121.83 lacs which is more than 60 lakhs of the cash deposited. The books of account maintained clearly substantiate the deposits of cash in bank accounts during the demonization period. The Books of accounts are available including Cash Book, Ledger, Bank Book, and Journal Register are enclosed and marked as **Annexure A9**. Further, the Ld.AR submitted that the Ld.AO grossly erred in concluding that the bank statement furnished in response to the Notice issued, was not relating to the assessee, as it was furnished through a messenger and no corroborative evidence submitted to the effect that the account so furnished belonged to the assessee. The Ld.AR continued that, the assessee carry on the Mobile Accessories wholesale trading business under the trade name of "Sri Gayathri Mobiles" from the very inception, based at Thiruvananthapuram, and the current account produced is in the name of Sri Gayathri Mobiles, operated with the South Indian Bank, Chalai Branch, Thiruvananthapuram. The cash deposit of Rs. 62.21 lacs that lead to proceedings u/s. 144 was originated in the same account of the assessee. The account number mentioned in the assessment order itself issued by the Ld.AO and the account number of bank account statement furnished during the first appellate proceedings are one and the same. In the audited financial statements furnished along with the ITR also shows the name "Sri Gayathri Mobiles" on its very face. Thus, it was quite

surprising to note that the assessee believes that the Ld.AO had thoroughly failed in discharging his duties throughout the assessment proceedings and in the first appellate proceedings, as well.

The Ld.AR further invited our attention to the impugned appellate order, where the Ld.CIT(A) made the following observations:-

*“6.2 During the appellate proceedings the appellant agitated on the above action of the AO and raised various grounds of appeal by filing detailed written submission. The copy of the same was forwarded to the AO to examine the contention/submission of the appellant by allowing reasonable opportunity of being heard. During the course of remand proceedings, in spite of giving/allowing several opportunities to justify the above contention, the appellant, however, could not substantiate/justify, with credible documents, the above claim, therefore, the AO reiterated its finding given in the original order passed u/s 144 of the I.T. Act on 21.12.2019. The relevant part of the AO's findings, in the remand report, are reproduced, here as under:-*

*"...letter dated 5.12.2023 was issued to the assessee calling for the following details:*

*(1) Bank Statement for the period from 1.4.2016 to 31.3.2017*

*(ii) Documents in support of the turnover claimed.*

*(iii) Party-wise details of rent paid during the year including rent agreements.*

***The case was posted for 13.12.2023 but no reply was filed. Later a bank statement in the name of Shri Gayathri Mobile with South Indian Bank was furnished through a messenger. No corroborative to who that this bank statement belongs to the assessee was furnished. No other supporting documents for the cash deposits and turnover claimed in the return were filed. The details of rent payment also not furnished.***

3. *Regarding the addition of cash deposits made during the demonetization period, it is not clear whether the same are in old currency notes or new currency notes. For both November and December, 2016, the assessee has shown sales (as per KVAT returns) almost equal to other months. Whether the assessee had accepted demonetized currencies during this period is not ascertainable. The bifurcation of the notes deposited is not ascertainable. In the Trading and Profit and Loss Account furnished by the assessee, the turnover is shown at Rs.5,06,91,097/- which means the assessee should have got his books of accounts audited and filed his return on time and paid the taxes due. In the absence of any details regarding the source of cash deposits, the disallowance u/s 69A may be sustained."*

6.3 *As regard the deposit of cash of Rs. 62,21,480/- is concerned it is claimed that the same has been deposited out of sale proceeds, received against business of retail and whole-sale trading of Mobile accessories. During the remand proceedings the appellant, however, could not bring any material evidence on record to establish the fact that the cash was actually deposited out of sale proceeds by producing the sales bills/ledger accounts, etc., against sale/trading of Mobile accessories during demonetization period whether only denomination of Rs. 500/- and 1000 were received given by the customers, etc., before the AO. In the absence of these details the AO could not ascertain the authenticity of above claim of the appellant. On the other hand the AO had also not resorted to find out whether the cash deposit was fully unexplained one and not out of sale proceeds. On the other hand it is noticed that in spite of having total turnover of Rs. 5,06,91,096, during F.Y. 2016-17, the appellant had not filed its return of income on due date rather filed on 20.10.2018. It is beyond the time limit permitted u/s 139 of the Act, for which he has not offered any explanation/justification. Considering the facts in entirety the claim of the appellant can not be totally accepted and that of AD also can not be accepted in toto, in the absence of clear cut finding on the above contention of the appellant, in view of these facts in my considered opinion addition to the extent of Rs. 21,00,300 will be reasonable, therefore, sustained, out of total addition of Rs. 62,21,480 and balance is deleted.*

*6.4 As regard, the disallowance of rent of Rs. 2,10,000- is concerned it is claimed that the same was paid against shop and go-down to two different parties, which is below the threshold limit of 1,60,000, for deducting the TDS, therefore, such TDS was made against the rent. The appellant however, has squarely failed to produce the original copy of lease agreements from two different parties, either during read proceeding or during appellate proceedings, therefore, the contentions of the appellant is not tenable. However, considering the claim of the AD is hereby directed to verify the original copies of lease agreements from tes parties and If found to be correct then the claim of sent may be allowed and if failed to produce the lease copies, then the disallowance shall be treated as sustained. All the grounds of appeal are decided accordingly.*

*In the result of the appeal is partly allowed.”*

4. The Ld.DR fully relied on the order of the revenue authorities; but was unable to bring any contrary facts against the submission of the Ld.AR.

5. We have heard the rival submissions and perused the material available on record. It is noted that the assessee had deposited cash in all the months of the impugned assessment year, the details of which are already placed on record.: -

Month	Sales turnover as per Books of Account	Tax collected on sales invoices	Total consideration receivable / received	Cumulative total consideration receivable/received
April	26,73,794.02	3,60,525.53	30,34,319.55	30,34,319.55
May	41,64,426.38	5,03,689.89	46,68,116.27	77,02,435.82
June	66,20,397.35	8,11,357.65	74,31,755.00	1,51,34,190.82
July	46,07,743.95	6,23,532.39	52,31,276.34	2,03,65,467.16
August	47,76,409.84	5,41,632.60	53,18,042.44	2,56,83,509.60
September	47,92,943.33	5,29,872.82	53,22,816.15	3,10,06,325.75
October	41,21,116.89	5,06,144.97	46,27,261.86	3,56,33,587.61
November	42,94,534.49	5,62,228.18	48,56,762.67	4,04,90,350.28
December	29,45,106.50	3,52,027.93	32,97,134.43	4,37,87,484.71
January	38,73,299.86	4,73,658.70	43,46,958.56	4,81,34,443.27
February	40,99,428.06	5,02,956.07	46,02,384.13	5,27,36,827.40
March	37,21,896.96	4,61,798.57	41,83,695.53	5,69,20,522.93
<b>Total</b>	<b>5,06,91,097.63</b>	<b>62,29,425.30</b>	<b>5,69,20,522.93</b>	

On careful consideration, we find that during the months of October and November, the assessee maintained the same ratio of turnover, with no abnormal increase in turnover during the said period. The Ld. AO, while framing the assessment, did not reject the books of account, nor was any evidence brought on record to show that the assessee had made sales outside the books or had incurred purchases not recorded in the regular books of account. It follows, therefore, that the cash deposits were duly reflected in and emanated from the assessee's books of account. The Ld. CIT(A), while considering the matter, also recorded that there was no finding to establish that the assessee had deposited Specified Bank Notes (SBNs). Nevertheless, on the basis of mere assumptions, the Ld. CIT(A) proceeded to allow only partial relief. Since the issue is purely factual in nature, and no evidence has been brought on record by the revenue authorities to demonstrate that the

assessee deposited unaccounted cash or SBNs, we hold that the balance addition sustained by the Ld. CIT(A) is unsustainable. Accordingly, the balance addition is directed to be deleted.

6. In the result, the appeal filed by thassessee bearing **ITA No.381/Jodh/2024** is allowed.

Order pronounced in the open court on 22<sup>nd</sup> August, 2025

Sd/-

sd/-

(DR.MITHA LAL MEENA)  
ACCOUNTANT MEMBER  
Jodhpur, Dt : 22 August, 2025  
Pavanan

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Jodhpur
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, Jodhpur