

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.192/SRT/2024

Assessment Year: (2017-18)

(Hybrid Hearing)

Salim Muradali Virani Shop No.3/6/8/12, Natwar Apartment, Besides Dena Bank, Amlī, Silvassa-396 230	बनाम/ Vs.	Assistant Commissioner of Income- tax, Circle-Vapi, 8 th Floor, Fortune Square-II, Above TBZ, Chala, Vapi- 396 191
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AEIPV 2664 P		
(Appellant)		(Respondent)

निर्धारिती की ओर से /Appellant by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Respondent by	Shri Ajay Uke, Sr. DR
सुनवाई की तारीख/Date of Hearing	04/06/2025
उद्घोषणा की तारीख/Date of Pronouncement	16/07/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 21.12.2023 by the Commissioner of Income-tax (Appeals), Valsad [in short 'CIT(A)'] for the Assessment Year (AY) 2017-18, which in turn arises from the assessment order passed by Assessing Officer (in short, 'AO') u/s 143(3) of the Act on 02.12.2019.

2. Grounds of appeal raised by the assessee are as under:

"1. On the facts and in the circumstances of the case as well as the law on the subject, the Learned Commissioner of Income Tax has erred in the confirming the action of the Assessing Officer in making addition of Rs.9,50,000/- on

account of alleged under reported income but actual cash deposited in bank account during demonetization period of Rs.90,05,500/-, whereas in survey proceedings, the statement was recorded of ash deposit in bank during demonetization period of Rs.99,55,500/-. Mere statement signed cannot be ground for addition without checking actual cash deposited in bank account.

2. On the facts and in the circumstances of the case as well as the law on the subject, the Learned Commissioner of Income Tax has erred in the confirming the action of the Assessing Officer in making addition on the basis of mere statement signed cash deposited of Rs.99,55,500/- during the course of survey proceedings, but actual cash was deposited of only Rs.90,05,500/-, which was already declared in the return of income.

3. On the facts and in the circumstances of the case as well as the law on the subject, the Ld. AO violated rules of natural justice by not properly considering the explanations, records and submissions while making untenable additions when the appellant furnished complete details.

4. It is therefore prayed that the above addition may please be deleted as learned members of the Tribunal may deem it proper.

5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.”

3. Facts of the case in brief are that assessee filed his return of income for AY 2017-18 on 18.07.2018 declaring total income at Rs.1,02,15,060/-. The case was selected for scrutiny and in response to the notices issued by the AO, the assessee filed various submissions and details. There was a survey u/s 133A of the Act at the premises of the assessee at Silvassa on 07.02.2018, during the course of which, the assessee disclosed Rs.99,55,500/- on account of unaccounted cash sales. However, assessee has declared only Rs.90,05,500/- in his return of income. The difference of Rs.9,50,000/- was added u/s 68 of the Act to the total income of the assessee. Aggrieved by the order of AO, assessee filed appeal before CIT(A).

4. The appellant contended before CIT(A) that the actual cash deposited in the bank account during the period 09.11.2016 to 30.12.2016 was Rs.90,05,500/- whereas the authorized officer during the survey proceedings took signature of the assessee that cash deposited during the above period was Rs.99,05,500/-. The CIT(A) has not accepted such contention of the assessee by observing that the disclosure was on account of unaccounted cash sales and not in respect of cash deposited in the bank account. Hence, the addition of Rs.9,50,000/- made by the AO was upheld.

5. Aggrieved, the appellant has filed present appeal before the Tribunal. The Ld. AR has filed a paper book including the statement recorded during survey u/s 133A of the Act, details of cash deposited in bank accounts during the period 09.11.2016 to 30.12.2016 and the submissions filed before the CIT(A) and some case laws. He submitted that actual cash deposit was Rs.90,05,500/-, which is summarized at page-26 of the paper book. He submitted that disclosure was in respect of the cash deposited during the demonetization period in Specified Bank Notes (SBN). For this, he has submitted copy of the statement recorded during survey u/s 133A of the Act, which is at pages-7 to 12 of the paper book. He requested that the case may be set aside and restored to the file of AO for verification and consequential relief.

6. On the other hand, Ld. Sr-DR for the Revenue supported order of lower authorities. He, however, would have no objection if the matter is restored back to the file of lower authority.

7. We have heard both the parties and perused the materials on record. We have also deliberated the case law relied on by the Ld. AR of the assessee. In view of claim of the Ld. AR that the disclosure was on account of cash deposited in SBNs during demonetization period and not on any other issue, we have perused the statement recorded during survey u/s 133A on 07.02.2018. The relevant part of the statement may be reproduced for ready reference:

Q-8 As per the information available with this office you have deposited total cash of Rs.99,55,500/- in your bank accounts, as per details given below, during the period from 09/11/2016 to 30/12/2016 in the old demonetised Notes (Specified Bank Notes, known as SBNs), after the demonetization was announced by the Government. Please state source thereof.

Sl. No.	Name of the Bank	A/c No.	Name of A/c holder	Amount deposited
1	Deena Bank, Silvassa	Current A/c No.042111024050	M/s S.S. Watch N. Electronics	Rs.63,05,500
2	HDFC Bank, Silvassa	Current A/c No.50200020274211	-do-	Rs.18,00,000
3	ICICI Bank, Silvassa	Current A/c No.655405500076	-do-	Rs.18,50,000
Total				Rs.99,55,500

Ans. The cash deposited in the Old Demonetised Notes, totalling to Rs.99,55,500/- was out of my sales effected upto Diwali in the 2016. Since, demonetization was announced, I deposited the cash available in old denominations of Rs.1000 & Rs.500 in my above bank accounts.

Q.12 If you cannot produce the purchase & sales ledgers and cash book for the F.Y 2014-15, F.Y.2015-16. FY 2016-17 & F.Y. 2017-18, especially for the FY 2016-17, how your contention that the cash deposited in the Old Demonetised Notes, totalling to

Rs.99,55,500/- in your bank accounts was out of your sales effected upto Diwali in the 2016 can be accepted?

Ans. I cannot answer this question. I therefore offer the amount of Rs.99,55,500/- as my additional income for the AY 2017-18, over and above my regular income and agree to pay tax on the same.

Q.21 Do you want to say anything on your own?

Ans. I agree to and confirm the additional income of Rs.99,55,500/- for the AY 2017-18, as disclosed vide answer to **Q.No.12** above and Rs.4,58,053/- for the AY 2018-19, as disclosed vide answer to Q.No.15 above and agree to pay the tax due to the same.”

It is clear from the answer to the question 8 in the statement reproduced above that the same pertained to cash deposited in old demonetised notes (SBN) totalling to Rs.99,55,500/- by the appellant. He offered the same as additional income in answer to Q.12 and again reconfirmed the disclosure in Ans. to Q-21. It is, therefore, clear that the disclosure was in respect of cash deposited in SBNs. The Ld. AR submitted that the total cash deposited from 09.11.2016 to 30.12.2016 was in SBNs was only Rs.90,05,500/- and not Rs.99,55,500/-. He has submitted bank statement in support the said claim. This has not been verified by the AO or CIT(A) on the ground that the disclosure was on account of cash sales and not cash deposited. However, we have perused the survey statement and found that the disclosure was on account of cash deposited in SBNs during demonetization period. Hence, the order of CIT(A) is set aside and the case is restored back to the file of AO for verification of the cash deposited (SBNs) during demonetization period and

restricting addition to the extent of such cash deposit. The ground is allowed for statistical purposes.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 16/07/2025.

Sd/-
(SUCHITRA R. KAMBLE)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ACCOUNTANT MEMBER

सूरत /Surat

दिनांक/ Date: 16/07/2025

Dkp Outsourcing Sr.P.S*

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

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सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत