

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, 'DB': AMRITSAR**

BEFORE UDAYAN DAS GUPTA, JUDICIAL MEMBER

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

**ITA No.330/ASR/2023
[Assessment Year: 2017-18]**

Rafi Ahmad Sofi, M/s Maharaja Gallery, Maharaja Bazaar, Srinagar, Jammu & Kashmir-190001	Vs	Income Tax Officer, Ward-2 Raj Bagh Srinagar, Srinagar, Jammu & Kashmir -190001
PAN-BVWPS1152D		
Appellant		Respondent

Appellant by	Shri Bashir Ahmad Lone, CA
Revenue by	Shri Charan Dass, Sr. DR

Date of Hearing	27.05.2025
Date of Pronouncement	19.08.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of National Faceless Appeal Centre (NFAC)/learned Commissioner of Income Tax (Appeals), Delhi (hereinafter referred to 'Id. CIT(A)') dated 23.10.2023 pertaining to Assessment Year 2017-18, arising out of the assessment order u/s 144 of the Income Tax Act, 1961(hereinafter referred as 'the Act') dated 24.12.2019.

2. The grounds of appeal read as under:-

1. *The assessment is bad in law, as no real opportunity was granted to appellant during the year assessment proceedings & appellant could not avail the opportunity before CIT(A), as communication was not received by appellant.*

2. The Ld.AO erred in both facts & laws by confirming additions of Rs 11,10,500.00 u/s 69A of the Act, of entire cash deposits during demonization period, as entire cash deposits is accounted in the books of the appellate & represent sales.

3. The Ld. AO erred in both facts & laws by confirming additions of Rs 11,10,500.00 in an arbitrary manner.

4. The CIT(A) erred in both facts & laws by conforming addition of Rs 3,14,270.00 in an arbitrary manner.

5. That, the assessment is based on mere presumptions and conjectures.

3. Brief facts of the case:-The Assessing Officer noted that the assessee had not filed his return of income for the present assessment year. Therefore, a notice u/s 142(1) of the Act was issued on 02.05.2019 alongwith questionnaire to the assessee requesting the assessee to furnish the details. Further, a detailed letter along notice u/s 142(1) of the Act dated 29.07.2019 was also issued during the assessment proceedings but the assessee did not make any response. Further, on verification u/s 133(6) of the Act from bank regarding, it was found by the Assessing Officer that the cash deposit of SBNs was made by the assessee as under:-

Bank Name & Branch	Account No.	Nature of account	Amount of Cash/Credits made to Bank		
			Cash Deposits during 09.11.2016 to 31.12.2016	Other Cash/Credit in F.Y. 2016-17	Total Credits made to Bank in F.Y. 2016-17
JK Bank SSI Lal Chowk	XXXXXXXX0000186	Cash Credit	4,50,000/-	23,72,562/-	28,22,562/-
JK Bank SSI Lal Chowk	XXXXXXXX002405	Current Account	6,60,500/-	15,55,873/-	22,16,373/-
Total			11,10,500/-	39,28,435/-	50,38,935/-

3.1. The Assessing Officer noted that during the period of demonetization, the assessee had made cash deposits of Rs.11,10,500/- in SBNs in his bank account and also had made transactions pertaining to business for an amount of Rs.39,28,435/- by way of cash/credit entries in the bank account. In absence of any reply from the assessee, the Assessing Officer added a sum of Rs.11,10,500/- as unexplained investment liable to be taxed @60% u/s 115BBE of the Act. Further, the Assessing Officer also added a sum of Rs.3,14,270/- u/s 28 of the Act on the basis of taking gross profit @8% as specified 44AB of the Act as the turnover of the assessee less than Rs.2 Crores.

4. Aggrieved with the said order, the assessee preferred an appeal before the ld. CIT(A). The ld. CIT(A) noted in para-4 of his order that notices of hearing u/s 250 of the Act dated 20.01.2021, 06.09.2023 and 06.10.2023 were issued to the assessee but the assessee did not file any submission in response to the notices issued. The ld. CIT(A) after considering the facts of the addition of Rs.11,10,500/- u/s 69A of the Act as brought out by the Assessing Officer in the assessment order dismissed the appeal of the assessee for the reason that the assessee could not controvert the finding given by the Assessing Officer on the merits of the issue. Further, with respect to the addition of Rs.3,14,270/- being 8% of other receipts of Rs.39,28,435/-, the ld. CIT(A) again dismissed the appeal of the assessee by holding that no books of accounts were furnished so as to establish that the profits out of retail business was less than the prescribed profits u/s 44AD of the Act.

5. Aggrieved with the said order, the assessee is in appeal before us.

6. In appeal before us, the assessee has filed application for revised grounds of appeal in respect of ground no.1. Further, the assessee has also filed an application for admission of the additional evidences under Rule-29 of the ITAT Rules, 1963 and the assessee also filed a written submission dated 11.03.2024. The AR further submitted that the notice u/s 142(1) of the Act issued to the assessee to file his ITR was not received by the assessee in view of the fact that during the assessment period (August, 2019 to March, 2020) the valley was disturbed and all lines of communications were generally not available. As per the grounds of appeal before us, it is submitted that the assessee could not appear before the ld. CIT(A) in view of the fact that notice sent by ld. CIT(A) were through email of the tax consultant, (who had filed the appeal) but the tax consultant did not intimate the same to the assessee, resulting in non-availing of opportunity before the Ld. CIT(A). It was further submitted that the assessee was engaged in the business of trading of Kitchen Items and the cash deposits in the bank accounts represent sales made in ordinary course of business and simultaneously withdrawn and the said fact is apparent from the record. Further, regarding the addition of net profit 8% of the balance bank credits, it was submitted that the assessee had maintained complete books of account. It was also submitted that in the case of the assessee the assessment for AY 2016-17 was also assessed u/s 147 of the Act and net profit rate @2.94% offered by the assessee was accepted. In view of these facts, it was submitted that since, the assessee could not appear before the Assessing Officer as well as ld. CIT(A), the matter may be remanded to the Assessing Officer to pass *de novo*

assessment as the additional evidences filed by him required factual verification by the Assessing Officer.

7. The ld. Sr. DR supported the orders of the authorities below.

8. We have heard both the parties and perused the material available on record. The assessee has filed written submission and additional evidences on the merits of its submission, which requires factual verification. Further, the assessee has requested to set-aside the proceedings back to the Assessing Officer as the case was decided *ex-parte* at every stage and neither any submissions were made on merits of the case nor the same were examined at any stage. We, therefore, in the interest of justice, set-aside the order of the Ld. CIT(A) and remand the matter back to the file of the ld. AO for de-novo assessment on the subject matter of the dispute in the present appeal, after taking into consideration all documentary evidences and the books of account to be produced by the assessee for proper explanation of his case.

8.1 Before concluding we find that in the instant case, the ld. CIT(A) issued the notice in ITBA portal and also in the e-mail ID provided in form 35, as confirmed by the ld. DR, and the present counsel also admitted to the same. As such, we observe that there were some laches on the part of the assessee in not appearing before the Ld. CIT(A) and as such, we impose a token cost of Rs.5,000/- (Rs. Five thousand) on the assessee to be deposited to the credit of the Prime Minister National Relief Fund, within 30 days, (thirty) from the receipt of this order, evidence to be produced before the jurisdictional AO.

8.2 With the above observation, we remand this case back to the file of the Assessing Officer for *de novo* assessment as directed above and we also direct the assessee to file all necessary papers and documents in support of his case before the AO, and to fully cooperate in fresh assessment proceedings.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 19th August, 2025

Sd/-
[UDAYAN DAS GUPTA]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated 19.08.2025.

Shekhar

Copy forwarded to:

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

Asst. Registrar,
ITAT, Amritsar