

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B': NEW DELHI**

**BEFORE  
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.3893/Del/2023  
(ASSESSMENT YEAR 2017-18)

Dhananjay Prop. of M/s Innovative Business Solution, 2097/A-1, Gali No.15, Near Govt. School, Prem Nagar, Patel Nagar, New Delhi-110008. PAN:AMBPD2549L	Vs.	Income Tax Officer, Ward-51(2), Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Mayank Sharma, Adv.
Department by	Ms. Suman Malik, CIT-DR
Date of Hearing	02/06/2025
Date of Pronouncement	02/06/2025

**ORDER**

**PER MANISH AGARWAL, AM:**

This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A) in short], dated 07.11.2023 in Appeal No. CIT(A), Delhi-17/11006/2019-20 passed u/s 250 of the Income Tax Act, 1961 (the Act, in short) for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual and Prop. of M/s Innovative Business Solutions engaged in the business of providing business solutions. The return of income in the year

under appeal was filed on 25.12.2012 declaring total income at Rs.4,85,040/-. The assessee deposited large cash into bank during the demonization period in Specified Band Notes (SBN), therefore, the case of the assessee was taken up for scrutiny and after considering the submissions made by assessee, an addition of Rs.42,85,000/- was made on account of cash deposit in SBN during demonetization by holding the same as unexplained u/s 68 of the Act. Further addition of Rs.25,50,950/- was made by estimating GP @ 10% on the total turnover of Rs. 2,55,09,514/-.

3. Against this order, assessee preferred the appeal before Ld. CIT(A) who dismissed the appeal of the assessee, therefore, the assessee is in appeal before the Tribunal.

4. In grounds of appeal Nos. A to G, assessee challenged the addition of Rs.42,85,000/- made u/s 68 of the Act towards the cash deposited in bank in SBN during the period of demonetization.

5. Before us, Ld. AR of the assessee submits that assessee had declared turnover of Rs.2,55,09,514/- which includes the amount realised from cash sale and available with the assessee in the cash book as on 08.11.2016, when the demonetization was announced. Out of the said cash balance, a sum of Rs. 42,85,000/- was deposited in the bank account during demonetization period in SBN by the assessee. Ld. AR submits that the turnover of the assessee had increased multifold as compared to immediately preceding year and cash available was the realization of sales, therefore, the deposit in

SBN should not be treated as unexplained money u/s 68 of the Act. He prayed for deletion of the addition made on this account.

6. On the other hand, Ld. CIT-DR supports the order of the lower authorities and submits that assessee had failed to substantiate the source of cash deposited during the period of demonetization. Accordingly, he prayed for confirmation to the order of lower authorities.

7. Heard both the parties and perused the materials available on record. Admittedly the assessee had claimed that the immediate source of cash was the sales made during the year. The AO though had rejected the trading results declared by the assessee, however, had not doubted the sales declared by the assessee and GP is estimated.

8. The realization of cash sales is duly recorded in the cash book maintained on day to day basis. Assessee has deposited SBN during the demonetization on various dates out of the cash available as on date with assessee as on the closing hours of 08.11.2016 i.e. the date when the demonetization was announced by the hon'ble prime minister and was the last day upto which the SBN could be accepted as valid currency. The AO is required to consider the records of the assessee such as bank statement, monthly sales summary, possibility of back-dating of cash sales or fictitious sales etc. before making any allegation about the genuineness of the cash deposited in SBN during the demonetization period. No such adverse observations were made

by the AO. The assessee has submitted complete details alongwith the copies of service tax returns filed before the relevant authorities who had not found any error in the same. It is seen that no contrary material was brought on record by the AO to disprove the details filed by the assessee. As observed above, assessee has already included the entire cash sales in the total sales and the profits have been derived which were offered for tax, thus taxing the same income twice once in the sales and other when the sale consideration was realised and deposited in the bank account which is doubted on conjectures and surmises.

9. The Hon'ble Delhi High court in the case of CIT v. Kailash Jewellery House in ITA No. 613/2010 (Delhi High Court) has held as under:

*“In the facts of above case cash of Rs.24,58,400/- was deposited in bank account. The Assessing Officer made the addition on the ground that nexus of such deposit was not establish with any source of income. The assessee claimed that it was duly recorded in the books on account of cash sales and was considered in the Profit and Loss Account. The Assessing Officer had verified the stock and cash position as per books and had accepted the same. Complete books of account and cash book was submitted to the Assessing Officer and no discrepancy was pointed out. On this basis CIT(A) deleted the addition. Tribunal also observed that it is not in dispute that sum of Rs.24,58,400/- was credited in the sale account and had been duly included in the profit disclosed by the assessee in its return. Therefore, cash sales could not be treated as undisclosed income and no addition could be made once again in respect of the same. The Hon'ble High Court dismissed the appeal filed by the Department.”*

10. The coordinate bench of ITAT Delhi in the case of S. Balaji Mech-Tech Private Ltd Vs. ITO in ITA No. 556/Del/2024 vide order dt. 25.09.2024 has observed as under:

*“18. Coming to the issue of stock movement and excess sales, we observed that the assessee has submitted relevant stock reconciliation and auditors report of stock movements and there is no negative stock movement which will indicate that the assessee has booked excess sales without there being proper purchases.*

*19. In our considered view, there are chances that during the demonetization period the regular customers may have choose to buy the spare parts and bearing by making payment by cash so that their excess SBN is transferred. We noticed that the credit sales has come down during this period and the sales of the assessee is more or less maintained during this period. Therefore, it shows that the changes in the patterns recorded in the sales are not abnormal.*

*20. Whether the recording of cash sales which is already declared in the books of account will attract the deeming provisions of sec.68 or 69A of Act. We observed that the assessee has declared all the cash transactions in its books of account and merely because the cash deposits are more during the demonetization period, whether the CIT(A) can invoke the provisions of section 69A of the Act. As per provisions of the section, it is necessary that the assessee be found with the money, the same is not recorded in the books accounts maintained by it for any source and not offers any explanation or such explanations are not found to be satisfactory to the AO. In this case, the assessee has already declared the cash sales in its books of account and offers the explanation as cash sales, which the lower authorities has accepted it as regular business transactions because they have not rejected the book results and brought to tax the total sales declared by the assessee in its books. Since the cash were already recorded and explanation is already part of the book results, there is no avenue for the CIT(A) to reject such explanations. This expression "explanation is found not satisfactory to the AO" is purely relates to the money found with the assessee which are not recorded in the books of account. In this case, the above expression has no relevance since the assessee had already declared the cash sales in its books. In the similar situation, the coordinate bench has held in the case of J.R.Rice India (P) Ltd as under:*

*"At the cost of repetition, to the extent of sales made, the stock position is also correspondingly reduced by the assessee which goes to prove the genuineness of the claim of the assessee. On examination of the cash book of the assessee, it is found that the assessee had cash balance of Rs. 55.94 lakhs as on 8-11-2016, i.e., the date on which demonetization was announced, which sufficiently explains the source of deposit of Rs. 52.60 lakhs in specified bank notes. Apart from this, the assessee had duly furnished the month wise details of sales, month wise details of purchase, corresponding freight charges incurred month wise, month wise power and fuel expenses and month wise selling expenses in the form of rebate and discount. The assessee also furnished the quantitative details of goods month wise for rice, sugar, chana dal and wheat flour before the Assessing Officer. All these facts clearly go to prove the genuineness claim made by the assessee that cash deposits of Rs.52.60 lakhs has been made out of cash balance available with the assessee and, hence, there is absolutely no case made out by the revenue for making addition under section 68."*

*Further, in the case of Fine Gujaranwala Jewellers Vs. ITO (ITA No. 1540/Del/2022 dated 27.03.2023, wherein it was held as under:*

*22. In the case in hand the reason for disbelieving the cash deposit is that the assessee has been deposited below Rs. 2 lakh in every transactions that lead to the conclusion of the Assessing Officer that the same has been done to avoid the application of provision of section 285BA read with Rule 114E of the Act. The said observation made by the Assessing Officer without any material in his hand.*

*There is no prohibition under law to make sale transaction below Rs. 2 lakhs as such the assessee had at liberty to manage his own affairs. From the action of the assessee in raising the sales bill below Rs. 2 lakhs the Assessing Officer cannot interpret as the sale are bogus only to give colour to non-genuine transaction as genuine transaction. The evidence brought on record by the Assessing Officer are not enough to hold that sales were not genuine. More so, the other wing of the Govt has already accepted the sale transaction under VAT, hence, the Assessing Officer is precluded from making contrary findings on the issue when the sales are not doubted. The other contention of the ld. DR is that the assessee has not maintaining stock register properly and date wise stock position are not given. The Assessing Officer made the said observation without*

*rejecting the books of account form which true profit and loss accounts could be ascertained and there is no quarrel on this issue. The lower authorities cannot place reliance on the circumstantial evidence which is only conjectures and surmises and the said approach of the ld CIT(A) is devoid of merit it deserves to be rejected. Further, the income of the assessee has to be computed by the Assessing Officer on the basis of available material on record and it is very important to have a direct evidence to make an addition rather than circumstantial evidence. When the assessee gives any reply or submission or any documents to the Assessing Officer, it is duty of the Assessing Officer to examine the same in the light of the available evidence. In the present case the Assessing Officer and the ld. CIT(A) have concluded the findings on the basis of conjectures and surmises. The Assessing Officer has to establish the link between the evidence collected by him and the addition to be made. The entire case has to be dependent on the Rule of evidence, the assessee in this case explained the source of bank deposits are from cash sales. The Assessing Officer proceeded to disbelieve the explanation of the assessee on the presumption basis without bringing the corroborative material on record. The Assessing Officer is required to act fairly as reasonable person and not arbitrarily capriciously. The assessment should have been made based on the adequate material and it should stand on its own leg. The Assessing Officer without examining any parties to whom the goods are sold by the assessee, came to conclusion that the sales are not genuine, without even rejecting the books of account which is in our opinion is erroneous.*

*21. Respectfully, following the above decisions, we are inclined to allow the grounds raised by the assessee with the observation that the AO/CIT(A) cannot invoke the provisions of section 68 or 69A when the assessee is already declared the source for cash deposits in the books of accounts and the lower authorities without their being any material to support on their contrary view, the provisions of section 68 or 69A cannot be invoked.*

*22. In the result, appeal filed by the assessee is allowed.”*

11. Further reliance is placed on the Judgment of coordinate Visakhapatnam bench of ITAT in the case of ACIT, CC-1 Visakhapatnam V. M/s Hirapanna Jewellers, 2021 (5) TMI 447, dated: 12-5-2021 wherein it is held as under:-

*"9. In view of the foregoing discussion and taking into consideration of all the facts and the circumstances of the case, we have no hesitation to hold that the cash receipts represent the sales which the assessee has rightly offered for taxation. We have gone through the trading account and find that there was sufficient stock to the sales and we do not find any defect in account effect the stock as well as the sales. Since, the assessee has already admitted the sales as revenue receipt, there is no case for making the addition u/s 68 or tax the same u/s 115BBE again. This view is also supported by the decision of Hon'ble Delhi High Court in the case of Kailash Jewellery House (Supra) and the Hon'ble Gujarat High Court in the case of Vishel Exports Overseas Ltd. (supra), Hence, we do not see any reason to interfere with the order of the Ld. CIT(A) and the same is upheld."*

12. In view of the above facts and looking to the fact that AO has invoked the provisions of section 145(3) and estimated the GP and trading additions is made, an addition of Rs. 3.00 lacs would be reasonable in the present circumstances. Accordingly, addition of INR 42,85,000/- is reduced to Rs. 3.00 lacs. Grounds of appeal No. A to G of the assessee are partly allowed.

13. Ground No. H to L with respect to the trading addition of Rs.25,50,950/- by applying GP rate @ 10% as against GP @ 2.67% decaled by the assessee.

14. Heard both the parties and perused the materials available on record. In the instant case, it is seen that the turnover of the assessee had increased from 61.02 lacs to 2.55 Crs. In the present year however, GP rate was reduced from 8.10% to 2.67%. It is an admitted fact that higher turnover could be achieved by lowering the profit margin. Further we uphold the addition of Rs. 3.00 lacs towards cash deposited during demonetization in SBN as unexplained income of the assessee which is earned from the business activity of the assessee,

therefore, if the same is added to the profits, the resultant GP would be increased by more than 1% and the GP rate would be 3.84% as against 2.67% declared by the assessee. Under these circumstances, in our considered view no further addition is required to be made on this account by enhancing the GP rate declared by the assessee. Accordingly, we hereby direct the AO to delete the addition of Rs.25,50,950/-. These grounds of appeal No. H to L are allowed.

15. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 02.06.2025.

Sd/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

Dated: 28.08.2025

PK/Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI