

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

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

**ITA No.3870/Del/2025
[Assessment Year: 2017-18]**

Vijay Kumar Gupta, U-161, Third Floor, Shakarapur, East Delhi, Delhi-110092	Vs.	ITO, Ward-60(3), Vikas Bhawan, I.P. Estate, Delhi-110002
PAN :AEQPG9289K		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri Manoj Kumar, Sr. DR

Date of Hearing	01.09.2025
Date of Pronouncement	01.09.2025

ORDER

This appeal by the assessee is arising out of the order of the Ld. CIT(A)/National Faceless Appeal Centre, Delhi, in Appeal No.CIT(A), Delhi-19/10737/2019-20, vide order dated 10.01.2025. The assessment was framed by the Income Tax Officer, Ward-60(3), Delhi, u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the relevant Assessment Year 2017-18 vide order dated 28.11.2019.

2. The only issue in this appeal of the assessee is against the order of the Id. CIT(A) confirming the addition to the extent of Rs.30,95,509/- made by the Assessing Officer of Rs.78,95,009/- u/s 69A of the Act mean cash deposit made during demonetization period. For this, the assessee has raised various grounds which are argumentative hence need not be reproduced.

3. At the outset, it is noticed that the assessee filed application dated 11.07.2025 for early hearing petition but when this appeal came up for hearing, first time on 12.08.2025, none was present. However, today i.e. 01.09.2025, when this appeal came up for hearing, the Id. Counsel for the assessee filed an adjournment petition by stating that the assessee has not been providing any assistance and proper instruction pertaining the to the captioned matter and hence the Id. Counsel want to withdraw the Vakalatnama, hence, the withdrawal is permitted.

4. Brief facts of the case are that the assessee during the year under consideration was carrying on the business and filed his return of income u/s 44AD of the Act and turnover of both the business was duly provided. The Assessing Officer during the assessment proceedings, ignored the return and added the total turnover as undisclosed income and taxed the same u/s 115BBE of the Act being cash deposit made during demonetisation period. The Assessing Officer noticed the assessee has made deposit in cash in his bank accounts during demonetization period amounting to Rs.78,95,009/- as under:

Sl No.	Bank Name	Account No.	Total deposits including cash deposits in Rs.
1	Canara Bank	2758201000883	53,88,545
2	HDFC Bank	50100070807302	3,31,247
3	Indian Bank	620070313	21,75,217
	Total		78,95,009/

5. The assessee before the Assessing Officer only made submission that the deposits are out of business receipts but could not file any evidence. Accordingly, the Assessing Officer added the entire cash deposit

as income being unexplained money u/s 69A of the Act amounting to Rs.78,95,009/-. Aggrieved assessee preferred appeal before the ld. CIT(A).

6. The Ld. CIT(A) after considering the submission of the assessee and considering the explanation of the assessee deleted the addition of Rs.47,99,500/- and confirmed the balance addition of Rs.30,95,509/- by observing in para 5.1 to 5.2, which is reproduced as under:-

“SUMMARY OF DISCUSSION

5.1 Ultimately the assessing officer brought to tax the cash deposits appearing in the Canara Bank account (whereas taxpayer is holding accounts in HDFC Bank, Oriental Bank of Commerce as per the table given above). During the course of appeal proceedings the taxpayer was asked to correlate the sales effected with the cash and credit entries appearing in the bank account. Taxpayer produced these documentary evidences during appeal proceedings -

1. Cash book from 1/4/2016 to 31/3/2017
2. Bank book from 1/4/2016 to 31/3/2017
3. One to one correlation between sales and cash deposited through bank account copies of CANARA BANK, INDIAN BANK, HDFC BANK.

On a perusal of cash book it is seen that following the sales the proceeds are deposited in the bank account. As far as Canara Bank is concerned cash book entries and cash deposits/credits in the bank accounts have one to one correlation to the extend described below -

TABLE 2

<i>Date and amount of sales</i>	<i>Date of deposit</i>	<i>Amount of deposit</i>
<i>Sales are made on day to day basis in the books of Vinod Traders</i>	<i>25/11/2016</i>	<i>500000/-</i>
<i>.....do.....</i>	<i>30/11/2016</i>	<i>570000/-</i>
<i>.....do.....</i>	<i>3/12/2016</i>	<i>800000/-</i>
<i>.....do.....</i>	<i>5/12/2016</i>	<i>800000/-</i>
<i>.....do.....</i>	<i>7/12/2016</i>	<i>815000/-</i>
<i>.....do.....</i>	<i>1/3/2017</i>	<i>100000/-</i>
<i>.....do.....</i>	<i>2/3/2017</i>	<i>50000/-</i>
Total		3635000/-

<i>Receipts reflected in the cash book of share business</i>	<i>Amounts are credited in OBC and HDFC B</i>	
<i>Amounts credited in Indian Bank</i>	15/4/2016	227000/-
.....do.....	25/4/2016	30000/-
.....do.....	12/5/2016	153000/-
.....do.....	19/5/2016	25000/-
.....do.....	13/6/2016	87000/-
.....do.....	30/6/2016	50000/-
.....do.....	4/7/2016	40000/-
.....do.....	18/7/2016	33500/-
.....do.....	30/7/2016	500/-
.....do.....	14/9/2016	14000/-
.....do.....	21/11/2016	12500/-
.....do.....	22/11/2016	100000/-
.....do.....	28/11/2016	100000/-
.....do.....	2/12/2016	25000/-
.....do.....	9/12/2016	49000/-
.....do.....	14/12/2016	100000/-
.....do.....	29/12/2016	13500/-
Total		1064500/-
HDFC BANK		
<i>Receipts reflected in the Cash book of share business</i>	22/11/2016	100000/-
SUM TOTAL		4799500/-

5.2 The cash deposits added back by the assessing authority is from the bank account of Canara Bank account no 2758201000883, HDFC bank account no 50100070807302, INDIAN BANK account no 620070313. Please see the table above. Credit is given for the amount of Rs 4799500 reflected in the bank accounts from the sales made by the taxpayer in the two businesses - one in Vinod Traders and another in share commission business. The remaining amount of Rs 3095509 is upheld as unexplained money the nature and source of which could not be satisfactorily explained before the assessing

officer/appellate authorities. The addition of Rs 3095509 is upheld u/s 69A.”

6.1. Aggrieved assessee is in appeal before the Tribunal

7. I have heard ld. Sr. DR and gone through the facts and circumstances of the case and I noted that the cash deposit during demonetisation period of Rs.30,95,509/- is not explained before the Ld. CIT(A) and even now assessee could not produce anything before me. I noted that this being cash deposit during demonetisation period of Rs.30,90,509/- added u/s 69A of the Act, I am of the view that this issue is covered by decision of the Hon'ble Madras High Court in the case of S.M.I.L.E. Microfinance Limited vs The ACIT CC-1 in W.P.(MD) No.2078 of 2020 & W.M.P. (MD) No.1742 of 2020, wherein, it was held that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax. Therefore, the provision applied for transaction done on or after 01.04.2017 only. The assessee is directed to be assessed under normal provisions only.

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

Order pronounced in the open court on 01st September, 2025

Sd/-
[MAHAVIR SINGH]
VICE PRESIDENT

Dated 03.09.2025

Shekhar

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi,