

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
[DELHI BENCH : "A" NEW DELHI]
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

I.T.A. No. 5607/DEL/2024 (A.Y 2017-18)

R. Gopal Impex Private Limited, KatraIshwarBhawan, Khari Baoli S. T. Road, Central Delhi-110006, PAN: AAECR4313G	Vs	DCIT/ACIT Circle 19(1) Delhi
Appellant		Respondent

I.T.A. No. 82/DEL/2025 (A.Y 2017-18)

DCIT Circle-19(1) Delhi	Vs.	R. Gopal Impex Private Limited, 511, Katra Ishwar Bhawan, Khari Baoli S. T. Road, Central Delhi-110006 PAN: AAECR4313G
Appellant		Respondent

Assessee by	Sh. Ved Jain, Adv & Ms. Uma Upadhyaya, CA, Sh. Aditya Garg, CA	
Revenue by	Sh. Ajay Kumar Arora, Sr. DR	
Date of Hearing	15/07/2025	
Date of Pronouncement	10/09/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

The Appeal and Cross Appeal are filed by the Assessee and the Revenue respectively against the order of Ld. Commissioner of Income Tax (Appeals)/national Faceless Appeal Centre ('Ld. CIT(A)/'NFAC' for short), New Delhi dated 07/11/2024 for the Assessment Year 2017-18.

2. The Grounds of Appeal of the Assessee are as under:-

“1. On the facts and circumstances of the case, the order passed by the Learned Commissioner of Income Tax (Appeals) (CIT(A)). NFAC, Income Tax Department is bad, both in the eye of law and on the facts.

2. On the facts and circumstances of the case, learned CIT(A), NFAC ITD has erred both on facts and in law in confirming the order of the AD despite the fact that reopening the assessment under Section 1.47 of the Act and consequent reassessment without complying with the statutory conditions and the procedure prescribed under the law are bad and liable to be quashed.

3. On the facts and circumstances of the case, learned CIT(A), NFAC, ITD has erred both on facts and in law in confirming the order of the AO despite the fact that reopening the assessment under Section 147 of the Act and consequent reassessment order are illegal, without jurisdiction, invalid and liable to be quashed.

4. (1) On the facts and circumstances of the case, learned CIT(A), NFAC, ITD has erred both on facts and in law in confirming the order of the AO despite that the reasons recorded for reopening the assessment does not meet the requirements under section 147 of the Act, bad in law and are contrary to the facts (i) That the learned CIT(A), NFAC ITD has erred both on facts and in law in confirming the reopening ignoring the fact that there is no live nexus between the reasons recorded and the belief formed by the assessing officer.

5. On the facts and circumstances of the case, learned CIT(A), NFAC, ITD has erred both on facts and in law in confirming the reopening despite the fact that the same has been made by the AO without independent application of mind.

6. On the facts and circumstances of the case, the learned CIT(A), NFAC, ITD has erred, both on facts and in law, in confirming the action of the AO despite that the reassessment proceedings initiated by the learned AO without obtaining valid prior approval of the prescribed authority as per section 151 of the Act is bad in law and liable to be quashed.

7. (i) On the facts and circumstances of the case, the learned CIT(A), NFAC, ITD has erred, both on facts and in law, in confirming the addition of Rs. 1,34,88,000/- on account of cash deposited during the demonetization period.

(ii) That the abovesaid addition has been confirmed rejecting the detailed submissions and explanations along with the evidences brought on record by the assessee to justify the source of deposit made in the bank account.

8. (i) On the facts and circumstances of the case, the learned CIT(A), NFAC, ITD has erred, both on facts and in law in directing the AO to estimate the profit (assuming 8%) on the cash deposited during the demonetization period and such direction is without jurisdiction and contrary to the provisions of Income Tax Act.

(ii) That the abovesaid direction has been given despite the fact that the assessee has filed detailed submissions and evidences to substantiate the source of cash deposited in the bank account.

9. (i) On the facts and circumstances of the case, the learned CIT(A), NFAC, ITD has erred, both on facts and in law, in confirming the addition of Rs. 1,76,33,158/- on account of cash deposited in the period other than the demonetization period by making estimation of profit at the rate of 8%

(ii) That the abovesaid addition has been confirmed rejecting the detailed submissions and explanations along with the evidences brought on record by the assessee to justify the source of deposit made in the bank account.

10. On the facts and circumstances of the case, the learned CIT(A), NFAC, ITD has erred, both on facts and in law, in confirming the additions despite the fact that the additions have been made by AO after rejecting the books of accounts without specifying any specific defect as contemplated under section 145(3) of the Act.

11. Without prejudice to the above and in the alternative, estimation of income made by the AO and confirmed by learned CIT(A), NFAC, ITD is ad-hoc, arbitrary, too high and unsustainable.

12. The appellant craves leave to add, amend or alter any of the grounds of appeal.”

3. The Grounds of Appeal of the Revenue are as under:-

“Whether on facts and circumstances of the case, the Ld.CIT(A) had erred in treating the cash deposited amounting to Rs.1,34,88,000/- during demonetization period as cash sales without appreciating that the assessee was not able to produce day to day cash book, stock register, bank book with narration and other relevant details during assessment as well as appellate proceedings and books of the accounts of the assessee were rejected u/s 145(3) of the Act for the detailed reasons given in the assessment order.”

4. Brief facts of the case are that, the assessee filed its return of income for the A.Y. 2017-18 declaring total income of Rs. 5,88,370/-. Case of the assessee was reopened under section 147 of the Income Tax Act, 1961 ('Act' for short) alleging that assessee has deposited cash of Rs. 1,34,88,000/- in his bank account during the demonetization period. During the course of reassessment proceedings, assessee submitted the details explaining the source of cash in Specified Bank Notes (SBN) deposits. The NFAC also asked the assessee to explain the amount of Rs. 22,77,69,100/- deposited during the non-demonetization period. The assessee submitted the details explaining the source of the said cash deposits. The NFAC/A.O.vide order dated 28/03/2022, assessed the income at Rs. 3,17,09,528/- as against the returned income of Rs. 5,88,370/- declared by the assessee by making an addition of Rs. 1,34,88,000/- on account of SBNcash deposits made in the bank account during the demonetization period by invoking the provisions of section 69A read

with section 115BBE of the Act and also made the addition of Rs. 1,76,33,158/- by estimating the income at the rate of 8% on the total cash deposits of Rs. 22,77,69,100/- made by the assessee during the non-demonetization period.

5. Aggrieved by the Assessment order dated 28/03/2022, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 07/11/2024, held that the said amount of Rs. 1,34,88,000/- being unexplained cash sale, directed the A.O. to estimate the profit treating the same as sales. In so far as cash deposited during the non-demonetization period amounting to Rs. 22,77,69,100/-, the Ld. CIT(A) upheld the action of the A.O. in estimating the profit @8% resulting confirmation of addition of Rs. 1,76,33,158/-.

6. Aggrieved by the action of the Ld. CIT(A) in treating the cash deposit amount to Rs. 1,34,88,000/- during the demonetization period as cash sales, the Department of Revenue preferred the Appeal in ITA No. 82/Del/2025 and Assessee also preferred the Appeal in ITA No. 5607/Del/2024 by challenging the action of the Ld. CIT(A).

7. The Ground No. 1 of the Assessee being general in nature, requires no adjudication.

8. The Assessee challenged the reopening of assessment in Ground No. 2 to 5. Ld. Counsel for the Assessee along with the other Grounds of Appeal submitted that the 'reason to believe' for reopening of the assessment is bad in law as mere deposits of cash in bank account during demonetization in SBN cannot be lead to conclusion that the income chargeable to tax has escaped assessment.

9. Per contra the ld. Departmental Representative submitted that during the original assessment proceedings there was no examination carried out by the A.O. on the issue of cash deposit during demonetization in SBN and the cash deposited during remaining period of previous year also not being verified by the A.O. therefore, the case of the Assessee was rightly reopened, thus, submitted that action of the A.O. in reopening the assessment u/s 147 of the Act requires no interference.

10. We have heard both the parties and perused the material available on record. From the perusal of the records, it is seen that the assessment in the case of the Assessee was completed u/s 143(1) of the Act and there was no examination carried out on the part of the Assessing Officer with respect to the source of such cash deposited during demonstration in SBN. Besides this, there were cash deposits during the remaining of the previous year which also

remained unverified. Under these circumstances, we are not in agreement with the argument advanced by Assessee's Representative that the 'Reason to Believe' is merely based on the fact that the cash deposited in bank account. In view of above facts and circumstances, grounds of Appeal No. 2 to 5 of the Assessee are dismissed.

11. The Assessee has not advanced any argument in support of Ground No. 6 of the Assessee's Appeal and not produced any material in support of the said Ground. Therefore, the Ground No. 6 of the Assessee is dismissed.

12. In Ground No. 7, the Assessee has challenged the confirmation of addition of Rs. 1,34,88,000/- on account of cash deposited during the demonetization in SBN. The Ld. CIT(A) directed the A.O. to estimate the profile on the cash deposited during the demonetization period by treating the same as sales in following manners:-

"5.4.1 After careful examination of the facts of the case, arguments of the AO particularly the allegation that the appellant brought its unaccounted income into the books as cash sales and the counter submissions of the appellant replying to each and every point raised by the AO, I find that the arguments of the appellant are more convincing and supported by evidence in the form of books of accounts including the sale bills, cash book, which are neither disputed. The AO has not pointed out single defect in the books of account and also not rejected the books of accounts.

5.4.2 In view of the above discussion, I am of the considered opinion that the arguments of the AO are not supported by

any reliable evidence but suspicion. Unique circumstance of announcement of demonetization of higher denominated notes on 8th November, 2016, consequent huge cash sales made by the appellant on 8th November 2016 and deposit of that cash in bank is satisfactorily explained by the appellant and there is no abnormality in the same. As per section 68, the sum found credited in the books of accounts for which the assessee offers no explanation, the said sum is deemed to be income of the assessee. In the instant case the assessee had explained the source as sales, produced the sale bills and admitted the same as revenue receipt. Therefore, the AO is directed to estimate the profit on the cash deposited during the demonetization period treating the same as sales. The appellant gets part relief. The grounds raised on this issue are partly allowed.”

13. From the above, it is evident that the Ld. CIT(A) after verifying the record held that the assessee had explained the source of such cash deposits as sales and also produced the sale bills and admitted the same as revenue receipt, thus the Ld. CIT(A) directed the A.O. to estimate the profit on the cash deposited during the demonetization period treating the same as sales.

14. On the other hand in Revenue's Appeal Ground No. 1, the Department challenged the action of the Ld. CIT(A) in treating the cash deposits of Rs. 1,34,88,000/- during the demonization period as cash sales without appreciating that the Assessee was not able to produce day to day cash book, stock register, bank book with narration with other relevant details either during the assessment proceedings or before the Ld. CIT(A).

15. From the perusal of assessment order, we find that the Assessee has failed to produce the copies of the salesbills and day to day stock register to establish that it had sufficient stock as and when the cash sales claim to have been made out which the cash was deposited during demonetization. It is further seen that except filing the details of the persons, the Assessee has not even produce the day to day cash books of each branch and in the audit report also, the auditor has mentioned that the Assessee has not maintained day to day stock register. In addition to the same, the books of accounts maintained by the Assessee werealso rejected by invoking the provision of Section 145 (3) of the Act and the A.O. has already reduced this amount of cash deposited in SBN during demonization from the total turnover declared by the Assessee. Therefore, the only question remained to be answered is with respect to the genuineness of the source of such cash sales. As observed above, the Assessee has not filed completedetails in support of the source, therefore, in the interest of justice we set aside the order of the Ld. CIT(A) and remand this issue to the file of the A.O. with a direction to make necessary verification of the sales claimed to have been made in cash in SBN which was deposited during the demonetization period in Bank. With these directions, we partly allow the Ground No. 7 of the Assessee and Ground No. 1 of the Revenue for statistical purpose.

16. The ground of Appeal of the Assessee No.8 &9 are on the confirmation of addition of Rs. 1,76,33,158/-on account of cash deposited during the period other than demonetization period claim to have been made out of cash sales on which profit @ 8% was applied by A.O. and confirmed by the Ld. CIT(A).

17. As could be seen from the order of the Ld. CIT(A) in Para 5.4.3 and 5.4.4, the Ld. CIT(A) discussed this issue in detail and considered the facts that the Assessee has failed to rebut the findings of the Assessing Officer, wherein the Ld. A.O. observed that the Assessee has failed to produce the sales details, day to day cash book in support of cash sales and deposits in the bank, day to day stock register. The A.O. was of the opinion that the trading results declared by the Assessee do not depict the true picture of the business of the Assessee.

18. The Assessee failed to controvert the above findings of Ld. A.O. either before the Ld. CIT(A) or before us. It is observed that the Assessee is dealing in the wholesale business of dry fruits wherein the Assessee is able to declare the purchase quality wise as well as item wise i.e. cashew, almond and pistachio etc. separately. However, when the question of valuation of stock was asked by the A.O., no day to day stock register item wise, quality wise was provided Assessee.

This clearly by the shows that the Assessee did not want to produce the necessary details before the Assessing Officer. Under these circumstances, we are of the considered view that the A.O. has rightly invoked the provision of Section 145(3) of the Act for rejecting the books of accounts.

19. Coming to the question as to what is reasonable GP rate in the case of the Assessee?, from the records, we find that Assessing Officer has applied G.P rate @8% on the cash deposited of Rs. 22,77,69,100/- (as reduced by the cash deposited during the demonetization in SBN) which is part of the total turnover. From the perusal of the Tax Audit Report available at page 34 of the PB, we find that the Assessee has declared GP rate of 3% on the turnover of 81.04 crores where as in the year under Appeal, it was reduced to 2.79% on the turnover of 51.39 crores. Looking to those facts and further considering the fact that there was cash deposited during the demonetization for which no satisfactory explanation given by the Assessee, in our considered opinion, GP rate of 4% on this turnover of 22,77,69,100/- will meet the end of justice and would be reasonable by considering the facts and circumstances of the case. Accordingly, the Ground of Appeal No. 8 & 9 of the Assessee are partly allowed and A.O. is directed to re-compute the addition accordingly.

20. In the result, the appeal of the Assessee as well as the Revenue are partly allowed for statistical purpose.

Order pronounced in the open court on 10th September, 2025

Sd/-

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Date:- 10.09.2025
R.N, Sr.P.S*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI