

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI “G” BENCH: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.6116/Del/2024

[Assessment Year : 2017-18]

Shri Saket Agrawal, 392/1, 2 nd Floor, Sainik Vihar, Pitam Pura, Delhi-110085. PAN-AAVPA3410D		vs	ITO, Ward-45(2), Delhi
APPELLANT			RESPONDENT
Appellant by	Dr. Rakesh Gupta, Adv., Shri Somil Aggarwal, Adv. & Shri Saksham Aggarwal, CA		
Respondent by	Shri Narpat Singh, Sr. DR		
Date of Hearing		26.06.2025	
Date of Pronouncement		24.09.2025	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by assessee against the order dated 10.12.2024 passed by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld. CIT(A)”] in Appeal No. CIT(A), Delhi-15/10489/2019-20 u/s 250 of the Income Tax Act,1961 [“the Act”] arising out of assessment order dated 31.12.2019 passed u/s 143(3) of the Act pertaining to Assessment Year 2017-18.

2. Brief facts of the case are that assessee is an individual and filed his return of income on 26.03.2018, declaring total income of INR 10,02,940/-. The case of the assessee was selected for complete scrutiny for the reason that assessee has deposited cash in specified bank notes (SBN) during demonetization and due to the survey carried out at the business premises of the assessee.

3. The assessee is engaged in the business of trading of optical frames including import of optical frames from China and sales to local parties in Delhi through his proprietorship concerns namely, M/s. Prerna Impex & M/s Kailadevi Overseas. Firm M/s. Prerna Impex was started in August, 2016 and majority of sales were made during the period from 01.10.2016 to 08.11.2016. During the course of survey, it was observed that assessee alongwith its sister concern M/s. Katyayani Optical in which karta of assessee's HUF is proprietor and M/s. Kashish Overseas Pvt. Ltd. in which assessee is one of the Directors, cumulatively deposited INR 10.09 crores in cash in SBN during the period of demonetization. It is further observed by survey team that in case of M/s. Prerna Impex, purchases were made from four local parties, which firms were not found at the given addresses on independent enquiries made through Inspector. It is further observed that Accountant of the assessee firm admitted in his statement that both the proprietorship firms of the assessee purchased frames only from RCI Global (HK) Ltd., Hongkong and sales were made in local market and no goods were purchased from local market. AO

observed that the product description mentioned as “spectacle frame” in the bills of all the parties as against the correct spelling of “spectical frame”. Therefore, AO was of the opinion that purchase declared by the assessee is unexplained and accordingly, entire purchase of INR 3,29,54,825/- was treated as unexplained expenditure u/s 69C of the Act and addition was made accordingly.

4. The AO further observed that assessee has deposited INR 2,18,59,948/- in Union Bank of India and INR 2,50,000/- in HDFC Bank in SBN during demonetization totaling to INR 2,20,59,548/-. The immediate source of the said cash was explained as sales made from M/s. Prerna Impex wherein AO observed that the entire sales was taken place during period from 01.10.2016 to 19.10.2016 i.e. within short period of 18 days where cash sales of INR 2.20 crores were claimed to have been made. In view of these facts AO was of the opinion that sales made were also ingenuine and accordingly, AO treated entire sales of INR 3,14,94,237/- as unexplained cash credits and made the addition of the same u/s 68 r.w.s. 115BBE of the Act.

5. Besides this, AO observed that in the trial balance of M/s. Prerna Impex, total credit under the head “sundry creditors” were of INR 5,62,62,496/- whereas purchases made were only INR 2,91,33,259/-. He, therefore, treated the remaining balance of INR 2,71,29,237/- as unexplained credit and made the addition of the same separately.

6. As a result of these three additions, total income of the assessee was computed at INR 9,25,81,239/- as against the income declared at INR 10,02,940/- in the return of income filed.

7. Against the said order, assessee filed appeal before Ld.CIT(A) who vide order dated 10.12.2024, dismissed the appeal of the assessee thus, the assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making aggregate addition of Rs.3,29,54,825/- on account of purchases made by treating it as alleged unexplained expenditure u/s 69C and taxing the same u/s 115BBE and that too by recording incorrect facts and findings and in violation of principles of natural justice and without appreciating/considering the submissions and evidences filed by the assessee.*

2. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making aggregate addition of Rs.3,29,54,825/-on account of purchases made by treating it as alleged unexplained expenditure u/s 69C/115BBE, is bad in law and against the facts and circumstances of the case.*

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making aggregate addition of Rs.3,14,94,237/- on account of sales by treating it as alleged income of assessee u/s 68 and taxing the same u/s 115BBE and that too by recording incorrect facts and findings and in violation of principles of natural justice and without appreciating/considering the submissions and evidences filed by the assessee.*

4. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making aggregate addition of Rs.3,14,94,237/-on account of sales u/s 68/115BBE, is bad in law and against the facts and circumstances of the case.*

5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in*

making addition of Rs.2,71,29,237/- on account of alleged difference of sundry creditors and purchases by treating it as alleged income of assessee u/s 68 and taxing the same u/s 115BBE and that too by recording incorrect facts and findings and in violation of principles of natural justice and without appreciating/considering the submissions and evidences filed by the assessee.

6. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making addition of Rs.2,71,29,237/- on account of alleged difference of sundry creditors and purchases u/s 68/115BBE, is bad in law and against the facts and circumstances of the case.*

7. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961.*

8. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

8. **Ground of appeal Nos. 1 & 2** raised by the assessee are in relation to the addition of INR 3,29,54,825/- made by AO while treating the entire purchase as bogus and unexplained u/s 69 of the Act and further, invoked the provision of section 115BBE of the Act.

9. Before us, Ld.AR submits that assessee filed all the bills and vouchers in respect of the purchase and also produced the ledger accounts of supplier parties before the AO. It is further submitted that AO gave his findings on the basis of survey report wherein it was alleged that these parties are non-existent. Ld.AR submits that purchases made from these parties are duly recorded in the stock records and were sold which records have not been doubted by the AO. He further submits that part payments to the parties were

made through Account Payee Cheque, therefore, the identity of the suppliers cannot be doubted and accordingly, addition made deserves to be deleted.

10. In **Ground of appeal Nos. 3 & 4**, assessee has challenged the addition of INR 3,14,94,237/- made on account of sales by treating the same as undisclosed income u/s 68 of the Act.

11. Before us, Ld.AR submits that all the sales were made through proper bills and such bills were produced for verification before the AO which were doubted solely for the reasons that details of the buyers were not mentioned in the bills. It is submitted by Ld.AR that it is at the option of the buyers to disclose their identity and assessee cannot compel them to disclose their identity and most of the sale made were of less than 20,000/- in cash. Ld.AR further submits that sales made are duly backed up by sufficient stock available with the assessee and there is no case of the Revenue that goods were sold without availability of stock in the hands. Ld.AR further submits that assessee made purchases of INR 70,22,459/- from RCI Global (HK) Ltd. for which necessary import documents were produced and sales of the goods imported were made to M/s. Kashish Overseas Pvt. Ltd. for a sum of INR 91,24,542/- and the payments were also received through banking channels. Thus, purchases and sales to the extent of transaction with RCI Global (HK) Ltd. cannot be doubted. He further submits that sales have been made and duly recorded in the books of accounts on day to

day basis and AO failed to appreciate all these facts therefore, purchase and sales so declared deserves to be accepted.

12. In **Ground of appeal Nos. 5 & 6**, assessee has challenged the addition of INR 2,71,29,237/- being difference between credit transaction value with the creditors and the amount of total purchase made from them.

13. In this regard, Ld.AR submits that creditor transactions from the creditors appearing in the trial balance not only includes purchases but also includes other expenses payable. He further submits that assessee had made purchases of INR 2,91,33,259/- and all the ledger accounts of the parties were available in the Paper Book which were filed before the AO also. Since these credits also contained the value of transactions of transfer of funds between the parties, the same cannot be held as unexplained. He thus, submits that the AO has misunderstood the real nature of credits in the accounts of creditors and made the addition which deserves to be deleted.

14. Ld. AR further submits that the AO has not invoked the provisions of section 145(3) of the Act and further has accepted the trading results and the income declared by the assessee which includes the profit already disclosed on such alleged bogus sales. He further submits that AO has made addition of the entire purchases alleged as bogus and also of the sales made out of such alleged bogus purchases and further made the addition of the

creditors thus has four additions of an income. He prayed accordingly.

15. On the other hand, Ld. Sr.DR for the Revenue supported the orders of the lower authorities and submits that during the course of survey carried out, all these facts were gathered by the Revenue and statements of the assessee were also recorded in details and assessee has failed to controvert such findings. Ld. Sr. DR further submits that deficiency pointed out by the AO in the purchase bills were not controverted by the assessee, such as mistakes in the spelling of the goods sold stated in the bills prepared by all the suppliers which suggest that these bills were prepared at one place. He further submits bills issued by all the four parties are having same format, font and style and even the seal placed in all the bills, appears to be similar. He further drew our attention to the fact that the VAT numbers in few bills of different parities are the same. As per Ld. Sr.DR, all these deficiencies /errors suggest that parties from whom purchases were claimed to have been made are dummy parties more particularly, when none of these parties were found available when the inspector visited their place of business just after few days of the purchase claimed by the assessee. Ld. Sr.DR further submits that cash sales were made solely for the purpose of covering the cash deposited during demonetization period. Ld. Sr. DR further submits that no real transaction of purchase and sales were carried out by the assessee which fact is further supported by the conduct of the assessee who started purchase from local market

specially from only four parties, in M/s Prerna Impex from 01.10.2016 and entire sales was made in only 20 days upto 20.10.2016 and none of the bills contained complete particulars of the buyers. He further submits that assessee has prepared “Tax tax invoice” for the goods sold to M/s. Kashish Overseas Pvt. Ltd. however, sales made in cash were recorded in “Retail invoice” separately which further supports the fact that assessee has prepared all these papers to camouflage the cash deposits in SBN during the demonetization period in the shape of cash sales. With respect to the addition on account of difference in value of transactions of sundry creditors, Ld. Sr. DR supports the order of the lower authorities. He further filed a written submission which read as under:-

“In the above case, it is humbly submitted that following facts may kindly be considered.

Brief Facts of the case:-

Assessment Order

(i) The assessee is an individual who carried on the business of trading in optical frames through his proprietary concerns-M/s Prerna Impex and M/s Kailadevi Overseas. The assessee also held directorship and other interests in related entities such as M/s Kashish Overseas Pvt. Ltd. and M/s Katyayani Optical.

(ii) For the year under consideration, the assessee filed a belated return on 26.03.2018 declaring total income of Rs. 10,02,940/-. The return was filed only after two notices under section 142(1) were issued due to non-compliance and failure to file the return within the prescribed time.

(iii) The case was selected for scrutiny on account of large and abnormal cash deposits during the demonetization period (9.11.2016 to 30.12.2016), as reported by the PCIT (Central) in ITBA AIMS. As per the survey report and information collected, the aggregate cash deposits across the assessee and his related concerns during this period amounted to approximately Rs. 10.09 crore.

(iv) During the assessment proceedings, the AO examined the books, invoices, stock register, sales ledger, and bank accounts and conducted field verification of vendors listed in the purchase invoices. Based on the evidence collected and legal analysis, the AO made three additions:

a. Rs. 3,29,54,825/- as unexplained expenditure u/s 69C, being bogus purchases from unverifiable/non-existent entities.

b. Rs. 3,14,94,237/- as unexplained cash credit u/s 68, representing bogus sales proceeds used to deposit unaccounted cash during demonetization.

c. Rs. 2,71,29,237/- as unexplained credit u/s 68, being the unexplained difference between sundry creditors and purchases.

(v) The total assessed income was computed at Rs. 9,25,81,239/- and taxed under section 115BBE of the Act. Penalty proceedings were also separately initiated.

CIT(A) order:-

The Ld. CIT(A), NFAC, upheld the additions made by the AO under sections 69C and 68 in respect of the above three issues after detailed consideration of the facts. The appellate authority affirmed the findings of the AO regarding the lack of credible evidence to support the claim of purchases and sales, and the discrepancies in the books of accounts.

(i) Disallowance of Purchases Rs. 3,29,54,825/- (u/s 69C):

The Ld. CIT(A) upheld the AO's finding that the purchases were bogus. Field enquiries revealed that supplier addresses were fictitious, invoices from different entities bore identical VAT numbers, and no payment confirmations or bank proofs were submitted. The assessee failed to prove identity and genuineness of suppliers or furnish import documents from China. Hence, the purchase transactions were held to be unexplained expenditure.

(ii) Disallowance of Sales Rs. 3,14,94,237/- (u/s 68):

The assessee claimed that cash deposits during demonetization were from cash sales made between 01.10.2016 and 08.11.2016. However, the Ld. CIT(A) noted that the assessee had just commenced business in September 2016, and the volume of claimed sales lacked supporting documents-no buyer details, VAT numbers, or audit trail were furnished. The sales were found unsubstantiated and the addition under section 68 was confirmed.

(iii) Sundry Creditors Discrepancy Rs. 2,71,29,237/- (u/s 68):

The Ld. CIT(A) noted that the sundry creditors shown at Rs. 5.62 crore far exceeded the total purchases of Rs. 2.91 crore. No confirmations or

reconciliation were provided. The excess liability was held to be unexplained and rightly added under section 68.

Aggrieved with the above, the assessee has filed appeal against the order of Ld.CIT(A) in ITAT.

Revenue's stand

(i) The addition of Rs. 3,29,54,825/- under section 69C was rightly made, as the assessee failed to prove the genuineness of purchases. Field inquiries revealed that the suppliers were non-existent, invoices carried identical VAT numbers and formatting, and no payment proofs or transport records were furnished. The assessee's explanation was inconsistent, shifting from imports to local purchases, with no supporting documentation. The CIT(A) confirmed that the assessee failed to discharge the burden of proof.

(ii) The claim of cash sales of Rs. 3,14,94,237/- was unsubstantiated. Sales were allegedly made within a month of starting business, with no buyer details or audit trail. Since the purchases were held bogus, the corresponding sales, also lacked credibility. No sales were shown after 08.11.2016, and the cash deposit pattern matched the demonetization period. The CIT(A) rightly held the deposits as unexplained cash credits under section 68.

(iii) The addition of Rs. 2,71,29,237/- was based on excess sundry creditors over purchases. No confirmations or reconciliation were provided. The liability was inflated without basis and was correctly treated as unexplained credit under section 68.

(iv) Both the AO and CIT(A) acted on detailed findings backed by survey material, statement under oath, and clear financial discrepancies. No valid rebuttal or third-party evidence was produced at any stage. The orders are reasoned and sustainable in law.

In view of the facts and legal submissions stated above, it is most respectfully prayed that the Hon'ble Tribunal may kindly uphold the reasoned findings of the Assessing Officer and the Ld. CIT(A), and dismiss the assessee's appeal in full. The additions made under sections 69C and 68 are based on thorough inquiry, corroborated by field verification, documentary inconsistencies, and failure of the assessee to discharge the onus of proof. Accordingly, the assessment order as sustained by the CIT(A) deserves to be affirmed.”

16. Heard the contentions of both the parties and perused the material available on record. Since assessee and revenue has made

common submissions for all the three issues challenged in grounds of appeal Nos. 1 to 6 with respect to purchase held as bogus, sales held as bogus and ingenuine sundry creditors and they are inter-related and inter-linked therefore, the same are taken together and decided as under:-

17. With respect to the purchase alleged as bogus, we find that out of the total purchases of INR 3,29,54,825/- held as bogus, purchases of INR 70,22,459/- were made from M/s RCI Global (HK) Ltd. in terms of four separate bills, available at pages 362 to 365 of Paper Book. These bills are duly recorded in the books of account as apparent from the ledger account of said party as available at page 183 of the Paper Book. It is further seen that payments were made through banking channel on 17.01.2017. All the goods so import from Hong Kong were immediately sold to M/s. Kashish Overseas Pvt. Ltd. for a sum of INR 91,24,542/- by way of four tax invoices raised which are placed in the Paper Book filed by the assessee. Thus, the purchases made from M/s RCI Global (HK) Ltd cannot be held as bogus. Accordingly, we direct the AO to reduce this amount of purchases and sales from the addition made towards bogus purchases and sales.

18. With respect to the remaining purchases and sales, we find that all these purchases were made from M/s. Kiran International, M/s Aarohi Enterprises, M/s. R.K. Traders and from M/s Shubham International. The purchases made were duly recorded in the books of accounts and stock records which have not been doubted.

Further the payments to such suppliers were made through banking channels which fact has been ignored by the AO. The AO has taken dual approach, on one hand, he has accepted the trading results and simultaneously doubted the genuineness of purchases, which is not permissible under the eyes of law.

19. Now, coming to the addition of remaining amount of sales. From the perusal of the facts of the present case, it is seen that assessee has maintained day to day books of accounts and stock records wherein the purchases and sales were duly entered, and such books were not rejected by the assessee. AO made the addition of entire sales without appreciating that part of the sales is out of the goods import from outside India which is hereby held as genuine herein above. Further the assessee has declared the sales before the VAT authorities who had not doubted the sales and further allowed the input credit claimed on the purchases made from the parties alleged as non-existent.

20. Now coming to the issue related to the addition of INR 2,71,29,237/- of the sundry creditors. AO made the addition of differential amount of total credit transactions as reduced by the total value of purchases made. From the perusal of trial balance as on 31.3.2017 of M/s Prerna Impex based on which AO had made the addition, it is seen that credit transactions includes the transactions with regular parties in addition to four suppliers from whom purchase were alleged as bogus. The trial balance as available at page 454 of the Paper Book is reproduced as under:-

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PRERNA IMPEX
D11/1, 1ST FLOOR,
SECTOR-8, ROHINI,
DELHI-110085
INDIA

Sundry Creditors
Group Summary
1-Apr-16 to 31-Mar-17

Page 1

Particulars	Opening Balance	Transactions		Closing Balance
		Debit	Credit	
Aarohi Enterprises		4,90,000.00	58,50,390.00	53,60,390.00 Cr
Genext Green Power Solutions Pvt Ltd		16,00,000.00	17,37,009.00	1,37,009.00 Cr
Hyundai Merchant Marine India Pvt Ltd		3,80,115.00	3,80,115.00	
Kashish Overseas Pvt Ltd		2,10,87,542.00	2,38,33,775.00	27,46,233.00 Cr
Kiran International		55,010.00	58,55,010.00	58,00,000.00 Cr
RK TRADERS		10,00,000.00	56,35,141.00	46,35,141.00 Cr
RSI GLOBAL (HK) LIMITED		70,95,256.38	70,95,256.38	
Shubham International		25,00,000.00	58,75,800.00	33,75,800.00 Cr
Grand Total		3,42,07,923.38	5,62,62,496.38	2,20,54,573.00 Cr

21. The AO made the addition of INR 2,71,29,237/- by observing that total credit transactions were of INR 5,62,62,496/- and total purchases were of INR 2.91 crores thus the balance credits are unexplained. From the perusal of the above trial balance, it is seen that credit transactions include transactions with genuine parties thus no addition could be made for the same.

22. The AO has made separate additions for purchases and sales by treating them as ingenuine. It is also seen that in the present case, AO has accepted the profits declared by the assessee on the sales recorded in the books of accounts. Thereafter multiple

additions were made of the same income, **first** by treating the entire purchases as bogus, **secondly** by treating the entire sales as bogus, **thirdly** making additions of credit transactions with these parties and **Lastly** taxing the income declared. This approach of the AO is contrary to the real income theory according to which tax is to be levied on the real income only.

23. In view of above facts and also admitted by Ld. AR of the assessee before us, to cover up the possible leakage of revenue by introducing such unaccounted purchases and sales, in our considered opinion 10% of the remaining purchases (after excluding the sales to M/s Kashish Overseas) would be reasonable as additional profit to meet the end of justice. Accordingly, we uphold the addition to the extent of 10% of sales (after excluding the sales to M/s Kashish Overseas) as additional profit and direct the AO to delete the balance additions made towards purchases, sales and creditors alleged as bogus.

24. With respect to the application of provision of section 115BBE of the Act, we are of the view that provision of section 115BBE of the Act are applicable from 01.04.2018 i.e. from AY 2018-19 and therefore, the same cannot be applied in the year under appeal. This view is supported by Hon'ble Madras High Court in the case of **S.M.I.L.E Micro Finance Ltd. vs ACIT in WP(MD) no. 2078 of 2020. & 1742 of 2020 dated 19.11.2024**. Thus by respectfully following the aforesaid judgement of hon'ble Madra High court, we

direct the AO not to invoke the provision of section 115BBE of the Act.

25. Accordingly, Grounds of appeal Nos. 1 to 6 are partly allowed as discussed above.

26. **Ground of appeal No.7** raised by the assessee is with respect to charging of interest u/s 234A, 234B and 234C of the Act. Since levy of interest is mandatory and is consequential in nature, the AO is directed to charge interest u/s 234A and 234B on the income finally computed after giving effect to the present order of Tribunal.

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

Order pronounced in the open Court on 24.09.2025.

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:- 24.09.2025

Amit Kumar, Sr.P.S

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