

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND ANIKESH BANERJEE, HON'BLE JUDICIAL MEMBER

ITA No. 43/Jodh/2024
(Assessment Year 2017-18)

Bansi Lal Kumhar Teliwada Mataji Road, Bedla, Rajasthan PAN No. ABQPK9155P		ACIT, Circle-2, Udaipur.
Assessee by	Shri Shrawan Kumar Gupta, Advocate.	
Revenue by	Shri Brij Lal Meena, Addl. CIT (DR)	
Date of Hearing	21.08.2025.	
Date of Pronouncement	29.09.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal by Assessee is directed against the order of National Faceless Appeal Centre, Delhi, (hereinafter referred to as "the NFAC/CIT (A)") dated 12-12-2023 for assessment year 2017-18.

2. The assessee has raised following grounds of appeal:

1. The impugned assessment order u/s 143(3) dated 19.11.2019 as well as the notice and the action taken by the Id. AO are bad in law and on facts of the case, for want of jurisdiction, barred by limitation, without proper approval or satisfaction and various other reasons and hence the same may kindly be quashed.

2. The Id. CIT(A) has grossly erred in law as well as on the facts of the case in passing exparty order without providing adequate and reasonable opportunity of being heard in the gross breach of law. Hence the additions so made by the Id. AO may kindly be quashed and delete.



3. Rs.14,55,000/-: The Id. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the addition of Rs.14,55,000/- u/s 68 made by the Id. AO on account of cash deposited in the bank account during the year as unexplained money in place of rental income i.e by denying the rental income of the assessee. The Ld. AO and CIT(A) both have also erred in not considering the vital facts and material available on record in their true perspective and sense. Hence the addition so made by the Id. AO is also being contrary to the real facts of the case and not according to the provision of law, hence the same may kindly be deleted in full.

4. Rs.20,00,000/-: The Id. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the addition of Rs.20,00,000/- u/s 68 made by the Id. AO on account of cash deposited in the bank account during the year as unexplained money in place of agriculture income i.e by denying the agriculture income of the assessee. The Ld. AO and CIT(A) both have also erred in not considering the vital facts and material available on record in their true perspective and sense. Hence the addition so made by the Id. AO is also being contrary to the real facts of the case and not according to the provision of law, hence the same may kindly be deleted in full.

5. The Id. AO has also grossly erred in law as well as on the facts of the case invoking the provisions of Sec. 115BBE for taxing the income at the higher rate, without issue any show cause notice and also not applicable in the present case. The Ld. AO has also erred in not considering the vital facts and material available on record in their true perspective and sense. Hence the provisions of Sec. 115BBE so invoked are also being contrary to the real facts of the case and not according to the provision of law, hence the same is

6. The Id. AO has grossly erred in law as well as on the facts of the case in charging the interest u/s 234A, B,C. The interest so charged is being totally contrary to the provision of law and on facts of the case and hence same may kindly be deleted in full.



7. That the appellant prays your honour indulgence to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.

3. In Ground No. 3 & 4, the assessee has challenged that the Id. CIT(A) has erred in law as well as on the facts of the case in confirming the addition of Rs.14,55,000/- and Rs.20,00,000/- u/s 68 made by the Id. AO on account of cash deposited in the bank account during the year as unexplained money rejecting the source of rental income and agricultural income.

4. At the outset, the Ld. counsel for the assessee, submitted that the assessee has explained in the source of the cash deposited in his bank account during the year under consideration amounting to Rs.14,55,000/- and 20,00,000/- out of the rental income and the agricultural income respectively before the authorities below. However, without controverting or disproving the evidences furnished by the assessee regarding the cash deposit in his bank account, the AO had rejected the source of rental income of the assessee and agricultural income and made addition u/s 68 on account of cash deposited in the bank account during the year as unexplained money which has been confirmed by the Ld. NFAC/CIT (A). The Ld. AO and CIT(A) both have not considered the vital facts and material available on record in true perspective and sense and thus, the addition so made by the Id. AO and confirmed by the



Ld. NFAC is contrary to the real facts of the case and in violation to the provision of law.

5. The Ld. AR explained that the source of cash deposit of Rs.34,50,000/- during demonetization comprises of Rs. 14,00,000/- was rental income from shops situated at Bedla village and Rs.20,00,000/- was Agricultural income. He further submitted that the breakup of cash deposit with the support of bank statement that cash deposits of Rs.19,60,000/- were out of the past savings of Rs.3,60,000/- from the income of preceding years and the balance Rs. 16,00,000/- was out of the Agricultural income derived and declared in the return of Income under the head agricultural income of Rs.20,00,000/-. He argued that the Ld. AO has failed to appreciate the facts narrated in replies (APB, Pgs.20-25) furnished during the course of assessment along with the evidences placed on records (APB, Pgs.117,27-148) the past years history.

6. The AR submitted that there was Free land (Vatika) owned by the assessee adjoining the hotel premises which were given on rent for social functions with rooms. The receipts were booked under the accounting head rent receipt by the accountant and such receipts are duly appearing in the profit and loss account attached with the return of income. The Ld. AO has not appreciated the accounts duly audited u/s 44AD, and report furnished alongwith the return of income. He argued that since the income is already disclosed in the return by



the assessee and It is settled legal position that same income cannot be taxed twice. The Ld. AO has not controverted the income declared in the return or disproved as the claim of the assessee by bringing on records any documentary evidence. He placed Reliance is placed on the following judgment:

1. Anand Ram Raitani V CIT (1997) 223 ITR 544 (Gau).
2. Hon'ble Bombay High Court in the case of CIT v. Bhaichand N. Gandhi [141 ITR 67 (Born.)
3. Smt Manshi Mahendra Pitkar Vs. ITO 1 (2), Thane (2016)
4. ACIT V Hirapanna Jewellers (2021)128 taxman 291 (Visakhapatnam Trib)
5. Vishan Swaroop Gupta [TS-109-ITAT-2021(JPR)] Jaipur ITAT
Dinesh kumar Verma ITAT
6. Shree Sanand Textiles Industries Ltd. V. DCIT vide ITA No. 1166/AHD/2014.
7. The LD. AR also submitted that the assessee is an agriculturist farmer since many years and regularly assessed to income tax. The comparative position of net agricultural income duly declared in the return of income as per past history is as under:

Assessment Year	Agricultural income
2017-2018	Rs.20,96,000/-
2016-2017	Rs.21,00,000/-
2015-2016	Rs.18,34,200/-
2014-2015	Rs. 14,75,000/-

In support, he has enclosed the copies of ITR of earlier years (APB, Pgs. 8-17) and the revenue has accepted this declared income, if the Id. AO and revenue was having any doubt, they could have reopened the case of the assessee of these years as they having sufficient time at the time of assessments. Hence it is not the case of the revenue that the assessee has shown such higher agriculture income first time to cover the alleged cash deposits. Hence the approach of the Id. AO was contradictory. In brief, he submitted that the assessee was owner more than 60 bigha agricultural land situated at different location in and around his Village and Most of the agricultural lands has been fully irrigated and cultivated with his owned tractor. He emphasizes in mentioning here that the issue related to agricultural income derived by the assessee was discussed and considered in the appellate proceedings against the assessment orders for 2003-04 to 2005-06 under section 143(3) of the Act by the then AO. The AR contended that the position of investment in agricultural land by the assessee is also appearing in the Balance Sheet at cost under the head investments and the list of investment in Agricultural land is reflected in schedule 3 of the Balance Sheet filed alongwith the return of income. The Ld. AO/NFAC has not considered and appreciated the issue related to income from agricultural activities in its true perspective.



He pleaded that the rental income and Agricultural income declared by the assessee cannot be treated as undisclosed income and it should have been assessed either under the head income from house property or under the head income from business. Under no circumstances can such income be treated as undisclosed income ^{or} ~~and~~ assessed under the head income from other sources by invoking provisions of section 68 read with section 115 BBE. He requested that the same may kindly be deleted.

8. The Addl CIT (DR) supported the impugned order. However, he failed to rebut the contention of the Ld. AR and could not file any contrary decision.

9. We heard both the sides and perused the material on record. Admittedly, the assessee has made cash deposit amounting to Rs. 34,00,000/- in his bank account during the demonetization period and in source explained rental income and Agricultural income with the support of documentary evidence viz-a-viz history of return of income filed by the assessee before the authority below. However, the authorities below were being not satisfied have made addition and confirm the addition as unexplained income of the assessee under section 68 of the Act and charge tax rates under section 115 BBE of the act without appreciating the material evidence filed during the course of the assessment proceedings before the assessing officer.



10. From the record it is evident that the assessee had source of cash deposit of Rs.34,50,000/- during demonetization as it was being comprised of Rs. 14,00,000/- out of the rental income from shops situated at Bedla village; Rs.20,00,000/- was out of the Agricultural income and 3,60,000/- out of the past savings. The source of rental income stands duly disclosed in the return of income and the income once tax cannot be tax again as it tantamount to double taxation as per statute. Furthermore, the source of cash deposits of Rs.19,60,000/- were stands explained out of the past savings of Rs.3,60,000/- and the balance Rs. 16,00,000/- was out of the Agricultural income derived and declared in the return of Income under the head agricultural income of Rs.20,00,000/-. In our view, the authorities below failed to appreciate the facts available on record as per the submission of the assessee, narrated in replies (APB, Pgs.20-25) furnished during the course of assessment along with the evidence placed on records (APB, Pgs.117,27-148) the past years history which were nowhere rebutted.

11. In our view, the rental income, Agricultural income and past savings declared by the assessee cannot be treated as undisclosed income and the Income Tax authorities ought to have assessed the same either under the head income from house property or under the head income from business. Under no circumstances, such income can be treated as undisclosed income and



assessed under the head income from other sources by invoking provisions of section 68 read with section 115 BBE.

12. In view of that matter, we hold that the impugned order is infirm and perverse to the facts on record in confirming the addition made by the AO u/s 68 and charging Tax u/s 115BBE of the Act. Accordingly, the addition of Rs. 34,00,000/- is deleted.

13. The assessee gets relief on merits as the addition has been deleted, the other grounds of appeal are rendered academic and infructuous.

14. In the result the appeal of the assessee is allowed.

Order pronounced on 29/09/2025 under Rule 34(4) of
Income Tax (Appellate Tribunal) Rules, 1963.

- Sd -

(ANIKESH BANERJEE)
JUDICIAL MEMBER

- Sd -

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 29/09/2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.

