

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH "SMC" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 878/SRT/2025
Assessment Year: 2017-2018**

Arvinbhai Ratilal Shah, T L/H
Kokilaben Arvinbhai Shah,
C/o Sun Gems, 203 Syndicate
House, Gujjar Falia Haripura,
Surat-395003.

**PAN NO. ACTPS 6533 K
Appellant**

Vs.

ITO Ward 2(3)(6),
Income Tax Office, Room 405,
Anavil Business Centre, Pal-
Hazira Road, Adajan,
Surat-394270.

Respondent

Assessee by : Mr. Suresh K Kabra, CA
Revenue by : Mr. J.K. Chandnani, Sr. DR

Date of Hearing : 06/10/2025
Date of pronouncement : 07/10/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 12.06.2025 passed by the Additional/Joint Commissioner of Income-tax (Appeals) – 1, Visakhapatnam [hereinafter shall be referred as 'Ld. CIT(A)'] for assessment year 2017-2018, raising following grounds:

The Id CIT (A), NPAC has erred and was not just and proper on the facts of the case and in law in confirming the addition of 4,69,250/- u/s 69A Income-tax Act.

PRAYER

2.1 The addition made by Ld Assessing officer and confirmed by the ld CIT (A) – NEAC may be kindly deleted.



2. Briefly stated, the relevant facts of the case are that the assessee, an individual, filed his return of income for the Assessment Year under consideration on 11.03.2018 declaring total income of ₹3,45,000/-, comprising income from capital gains on equity shares, dividend, commission income, and interest. The return so filed was processed under section 143(1) of the Income-tax Act, 1961. Subsequently, the case was selected for scrutiny assessment.

2.1. During the course of assessment proceedings, the Assessing Officer observed that the assessee had deposited cash in various bank accounts during the period of demonetisation. The details of such deposits were noted as under:

Bank Name	Account No.	Cash deposited during demonetization period.
<i>Bank of India</i>	<i>270010100054101</i>	<i>Rs.2,00,000</i>
<i>Sutex Co-operative Bank Ltd.</i>	<i>2480081001383</i>	<i>Rs.9,38,500</i>
<i>Indian Overseas Bank</i>	<i>33701000012065</i>	<i>Rs.1000</i>
Total		Rs.11,39,500

2.2. In response to the queries of the Assessing Officer, the assessee explained that the source of the cash deposits was the opening cash balance of ₹10,03,270/- together with certain cash withdrawals made in earlier years. To support documentary evidence of opening cash balance, It was further submitted that till Assessment Year 2013-14, the assessee was engaged in the business of cheque discounting, and on closure of such business due to advancing age, he continued to derive income from other



sources, while still maintaining books of account on a regular basis.

2.3 The Assessing Officer, however, did not accept the explanation furnished by the assessee. The rejection of the assessee's explanation rested upon the following principal grounds:

(i) The return of income for the earlier Assessment Year 2016-17 was filed on 28.12.2016, i.e., at the fag end of the demonetisation period, and that too in Form ITR-1, wherein there is no column for disclosure of opening cash balance.

(ii) No documentary evidence substantiating the availability of cash balance in the books of account was furnished.

(iii) The Assessing Officer also noted that immediately prior to the cash deposits in question, the assessee had made cash withdrawals of ₹35,000/- on 03.09.2016 from Bank of India, ₹40,000/- from IDBI Bank, and ₹15,000/- from Sutex Co-operative Bank on 10.10.2016.

2.4 Considering these factors, the Assessing Officer opined that the explanation tendered was unsubstantiated. Consequently, he treated the sum of ₹9,38,500/- deposited in Sutex Co-operative Bank Ltd. as unexplained money under section 69A of the Act, while granting relief in respect of ₹2,00,000/- and ₹1,000/- deposited in Bank of India and Indian Overseas Bank respectively.



2.5 On appeal, the assessee reiterated that he had been maintaining books of account regularly and had filed the cash book and related statements before the Assessing Officer. It was further urged that since Form ITR-1 does not contain any field for reporting cash balance, the non-disclosure of such figure in the return could not be construed adversely. The learned CIT(A), after taking into account both the observations of the Assessing Officer and the contentions advanced by the assessee, partly accepted the explanation and restricted the addition to 50% of the cash deposits made in old currency notes. The CIT(A) observed that while the contention of the Assessing Officer regarding the timing of cash withdrawals carried some merit, the assessee's explanation also deserved partial acceptance, given that records indicated that the assessee had engaged in cheque discounting business up to FY 2012–13 and was thereafter offering income from other sources on a regular basis. The relevant finding of the Ld. CIT(A) is reproduced as under:

“6.2 I have carefully gone through the assessment order, submissions made by the appellant. During the demonetization period the appellant has deposited cash amount of Rs.11,39,500 in three Bank accounts. Out of these deposits, amount of Rs.9,38,500 were deposited in old currency notes. There is a merit in AO's contention that if appellant has huge cash balances on hand why did he withdraw cash of Rs.35,000 on 03/09/2016 from his bank account no.270010100054101, Rs.40000 from IDBI Bank, Rs.15000 from Sutex Bank on 10/10/2016. Further, AO made addition of Rs.9,38,500/- u/s.69A of the IT Act on the ground that the return of income for AY 2016-17 was filed on 28.12.2016 i.e., fag end of the demonetisation period and assessee has filed ITR-1 from which the claim of cash balance is not verifiable.”



There is also merit in appellant's contention that there is no any specific column in ITR-1 wherein cash balance required to be mentioned. Further, as seen from the records the appellant is filing return of income belatedly and offering income from other sources regularly. As per the submissions and also as seen from the data available in income tax portals the appellant has done business up to the financial year 2012-13 and offering business income. Though, the AO has denied the opening cash balance of Rs. 10,23,270/- there might be some opening cash available with the appellant. In view of the above, after considering the facts of case, it is decided to give relief 50% of the cash deposited in SBNs (Old Notes) as explained. Accordingly, the AO is directed to re-compute the income of the appellant. Hence, the grounds raised by the appellant are partly allowed."

3. Before us, the learned Counsel for the assessee filed a Paper Book containing pages 1 to 19. He drew attention to page 19, which contained a tabular statement of returns filed from Assessment Year 2007-08 to 2019-20 in various ITR forms. It was contended that till Assessment Years 2012-13 and 2013-14, the returns were filed in Form ITR-4, but subsequently, in absence of business income, returns were filed in Form ITR-1 or ITR-3, neither of which requires reporting of opening cash balance. It was further submitted that the assessee has since expired, and the legal heir was now representing the matter; therefore, in view of the peculiar facts, the balance addition sustained by the CIT(A) deserves to be deleted in entirety.

4. We have carefully considered the rival submissions, perused the assessment order, the appellate order, and the material placed on record. The controversy essentially revolves around the genuineness of the source of cash deposits aggregating to ₹9,38,500/- during the demonetisation period.



4.1 It is evident from record that the assessee had, in earlier years, engaged in cheque discounting business, which by its very nature involves regular handling of cash. Though such business activity was discontinued after Assessment Year 2013-14, the assessee continued to file returns of income from other sources and maintained certain books of account. However, the evidentiary value of such books remains uncorroborated, as the same were not subjected to audit and the copies filed before us are unsigned, even by the legal heir.

4.2 The CIT(A) has taken a balanced and pragmatic approach by considering both sides of the argument. He rightly noted that if the assessee truly had a large cash balance, there would have been no occasion to withdraw small sums immediately before the demonetisation period. On the other hand, the assessee's past profile and continued maintenance of books cannot be brushed aside in totality. The relief granted to the extent of 50% of the deposits is, in our considered view, a judicious and equitable estimation consistent with the factual milieu of the case.

4.3 Having regard to the totality of facts and circumstances, we find no perversity or infirmity in the findings of the CIT(A). The order passed by him is well reasoned, supported by material on record, and does not call for any further interference at our end. The ground of appeal of assessee is accordingly dismissed.



5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 07/10/2025.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Surat;

Dated: 07/10/2025

Rahul Sharma, Sr. P.S. (on Tour)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Surat