

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं माननीय श्री जगदीश, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND HON'BLE SHRI JAGADISH, ACCOUNTANT MEMBER

आयकरअपील सं./ ITA No.3263/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

**Sunpenta Mining Service
Private Limited,**
S.F.No.140/5, Krishna Nagar,
Mamangam, Jagir Reddypatti,
Salem,
Tamil Nadu-636 302.
[PAN:AAVCS 5476L]

**Vs. The Deputy Commissioner of
Income Tax,**
Circle-1(1),
Salem.

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: S/Shri P.M.Kathir, G. Akash,
Advocates

प्रत्यर्थी की ओर से /Respondent by

: Ms.Gouthami Manivasagam, JCIT.

सुनवाई की तारीख/Date of Hearing

: 10.07.2025

घोषणा की तारीख /Date of Pronouncement

: 09.10.2025

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

The present appeal is filled by the assessee against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi dated 08.10.2024 for the Assessment Year ('AY' in short) 2017-18.

2. Brief facts of the case are as under:

The assessee company is engaged in the business explosive retail business and services. The assessee filed its ROI for the A.Y.2017-18 on 01.02.2018. During this A.Y., the assessee had deposited cash of Rs.1,56,60,500/- during demonetisation period out of its cash sales. Total sales including the cash sales were recorded in the books of accounts and declared in the ROI filed by the assessee. This return was selected for scrutiny and the AO completed the Assessment u/s 143(3) of the Act vide order dated 26.12.2019 adding cash deposits of Rs.1,56,60,500/- as unexplained money u/s. 69A of the Act during the demonetization period and taxed the same at 60% u/s.115BBE of the Act.

Aggrieved by this order the assessee has filed an appeal before the Id.CIT(A) and made its submissions. The Id.CIT(A) vide order dated 08.10.2024 dismissed the Appeal. Aggrieved by the same the assessee has preferred the present appeal before us.

3. Before us, the Ld.Counsel for the assessee submitted that the addition made were on account of cash deposit during the demonetization period of Rs.1,56,60,500/-. The assessee submitted that the cash deposited during the demonetization period was out of the cash sales. The Id.counsel further submitted that assessee had also produced its entire books of accounts with the AO to substantiate this point as the profit from these cash sales was also duly offered to tax in our ROI for this year. The Id.counsel further submitted that the AO had also

accepted the sales figures and books of accounts. However, AO had stated in the impugned order that the assessee had manipulated its cash sales for the month of October 2016 to "explain the sources for the cash in hand as on 08.11.2016". On this aspect, the Id.counsel submitted that the AO has accepted our books of accounts, including the sales ledger, cash book etc, which also recorded the cash sales during the months of October and November, 2016, therefore, having accepted the books of accounts and loss from business during the year, the AO cannot add the cash deposits out of these sales as unexplained credits of the assessee without rejecting the books of accounts. The Id.counsel for the assessee relied upon the following case laws as under:

A Chennai Bench of the Hon'ble ITAT in The DCIT vs. M/s.ANS Gupta & Sons-ITA No.1635/Chny/2024 held as under:

16... The AO is however noted to have only casted aspersions on the sales to the tune of A. Y. 2017-18 ₹2,31,15,500/- made by the assessee, but at the same time, he is noted to have accepted the entire sales of 2103,06,83,195/- and also the gross profits derived there from ie. ₹10,82,51,121/- (Gross profit approx 10.50%) which fact is evident from the AO starting the computation of total income by accepting the returned income shown by the assessee to the tune of ₹1,82,35,770/- which included the SBNs of ₹2,31,15,500/-. We thus concur with the finding of the Ld.CIT(A) that, the AO having accepted the book results and without rejecting the books erred in suspecting the proceeds which were deposited during the demonetization period without any basis/material was not tenable in law.

B. Mr. Waseem Ulla Khan vs. ITO-ITA No.1956/Bang/2024:

We are of the considered opinion that if the books of accounts are not rejected by the authorities below and the cash sales recorded in the books are held as genuine business receipts, then addition of cash deposited in the bank account once again results in double taxation. Mere because the cash were deposited during the demonetization period does not make it

tainted. The assessee has duly explained the source of the cash deposits. The revenue has not brought on record any contrary evidence to suggest that the cash deposited were from unaccounted sources. We are of the opinion that the merely based on the conjecture & surmises the Id. ADDL/JCIT(A)-1, Pune came to the conclusion that it was indicative of the colouring device adopted by the assessee to give legitimacy to its unaccounted and undisclosed cash deposits

C. Himalaya Spinning Mills vs. ITO-I.T. A. No. 88/Asr/2022:

7. Heard rival contentions, perused the material on record, impugned order, written submission and case law cited before us. Admittedly, the assessee has made cash sales out of the opening stock and purchases made during the year duly supported with audited statement of account and VAT Return. The authorities below has neither pointed out any discrepancy in the audited books of account nor rejected assessee's books. Further, the Ld CIT(A) has made contradictory observation in one para that there was no cash sale in the earlier year FY 2015-16 whereas in another para he observed that there was cash sale of Rs. 560204/- in FY 2015-16. Merely, making a comparison of cash sales with the preceding assessment year in hypothetical manner bases on assumption, surmises and conjectures without supporting corroborative documentary evidence to disprove disputed cash sales as bogus sales cannot be approved.

D. Mahesh Kumar Gupta vs. ACIT [2023] 104 ITR(T) 519 (Jaipur - Trib.):

9.5... The Assessing Officer accepted the opening stock, purchase, as well as the closing stock at the year-end to be genuine and correct. It is also worthwhile to mention that the Assessing Officer has not rejected the books of account of the assessee by invoking the provisions of section 145(3) and even there is no whisper in the order about any defects in the books of account. The Assessing Officer has not brought any material on record to establish that the sale bills were bogus or any evidences indicating that sales were bogus. The Assessing Officer is wrong in not accepting the declared cash sales as not verifiable which are recorded in books of account which were found to be correct and complete. It was also noted that the assessee has undertaken cash sales of Rs. 1.86 crores. Out of the total cash sales, cash sales amounting to Rs. 80 lakhs have been found to be non-genuine and added under section 68. Explanation offered to substantiate the cash sales has been arbitrarily rejected without holding that the sales is duly recorded in the books and is also supported by the various records produced in the assessment proceedings.

4. The Id. Counsel further stated that the facts of the above referred cases are similar to the assessee's case. Since in the assessee's case also the AO accepted the

books of accounts but made the impugned addition, the same cannot be sustained and is liable to be deleted in toto. Alternatively, he prayed that the addition, if any, is being sustained u/s. 69A of the Act, be taxed @ 30% only as this is the rate as per section 115BBE of the Act for the A.Y.2017-18, as has been held by the Hon'ble Madras High Court in Smile Micro Finance Ltd Vs. ACIT [WP(MD) No. 2078 of 2020]. The Ld.Counsel for the assessee also referred the paper book and he has shown :

MCA master data of the appellant -Page No.1.

Acknowledgement of ROI filed along with income computation statement for this year- Page Nos 2 to 4.

Audit report along with audited financials filed by the assessee -Page No.5 to 33.

Letter filed before the AO - Page Nos 34 to 36.

Submission filed before the CIT(A) – Page Nos 37 to 44.

5. Per contra, the Id.DR vehemently supported the impugned order and pleaded for the dismissal of the appeal. She further argued that the authorities below rightly taxed at special higher rate under section 115BBE of the Act. She also referred the following paras of the Id.CIT(A) order:

6.2.5. During appellate proceedings, no accounts, ledgers, copy of books of accounts, copy of sales register etc. was produced. From the above charts, it is clear that as per the month-wise break-up of cash sales and cash deposit, the appellant's sales never exceeded an average of 40 lakhs. In this regard, I agree with the Ld. AO. However, in the month of November ie. 01.11.2016 to 08.11.2016, the assessee has shown sales of Rs. 1,33,67,212/- which is several times that is nearly three hundred times of the average monthly sales. If we compare the similar period in the earlier years i.e. on 08.11.2015, the cash in hand was Rs. NIL. Whereas as on 08.11.2016, the cash in hand was at Rs. 2,07,95,759/- Also, from the Bank Statement the Ld. AO noted that despite sufficient cash balance in hand in November, 2016, the appellant has withdrawn cash of Rs. 55,000/-

6.2.6. In view of the clear-cut facts of the case that appellant has shown unusual cash sales in the month of October, 2016 at Rs. 1,06,65,895/- and in the month of November till 08.11.2016 of Rs. 1,33,67,212/- as against average 40 lakhs in F.Y. 2016-17 and NIL in F.Y. 01.04.2015-08.11.2015, the appellant could not prove the exact nature and source of the money credited during the demonetization period in his Bank Account.

6.2.7. The various case laws quoted by the appellant are not discussed as the facts of the case are extremely clear where the assessee who is having average Rs. 40,00,000/- sales during the year suddenly reports cash sales in the month of October, 2016 at Rs. 1,06,65,895/- and in the month of November till 08.11.2016 of Rs. 1,33,67,212/-. This unusual cash sales without any explanation does not require the support of any Court decisions. It is a clear-cut case of unexplained money u/s 69A of Income Tax Act deposited in the Bank Account and cooked up accounts to show that the money deposited is actually coming out of cash sales made by the appellant.

6.2.8. The Facts of the Case are completely covered by the provisions of Section 69A. For further clarity, the Section is quoted here:

Section 69A

"Unexplained money, etc.

Where in any financial year the assessee is found to be the owner of any bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing) Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."

6.2.9. Thus, as per the above section the onus is on the appellant who is found to be in possession of money in his Bank Account which is not recorded in his books of accounts and has not offered any explanation to the assessing officer, then such an income of the appellant would be taxed u/s. 9A of the Income Tax Act. In the present case, the onus has not been discharged by the appellant as cast on him by Section 69A of Income Tax Act and hence, the Ld. AO has rightly added an amount of Rs. 1,56,60,500/- to the income of the appellant.

6.2.10. In view of the detailed discussion of facts and circumstances of the case, I am of the firm view that the order passed by the AO is as per the procedure laid down in the Income Tax Act and as per the various provisions of the Income Tax Act. In view of the above, the ground of appellant is dismissed and the addition made by the AO is hereby confirmed. Therefore, these grounds are dismissed.

6. We have heard the rival contentions and perused the orders of the authorities below along with the case records and case laws cited. The core issue for adjudication is whether the cash deposit of Rs.1,56,60,500/- during the demonetisation period can be treated as unexplained money u/s 69A, despite the assessee maintaining books of accounts duly recording the cash sales, and such books not being rejected by the AO. It is an admitted fact that the assessee has maintained regular books of accounts. The cash sales during the relevant period were recorded therein. The AO did not invoke section 145(3) to reject the books of accounts. The income declared by the assessee includes the profits earned from such sales. Therefore, in the absence of any rejection of the books of accounts or identification of any defects therein, we find merit in the assessee's contention that the AO could not have treated the cash deposits as unexplained merely on the basis of suspicion or variation from average sales. Reliance placed on the decision of coordinate benches as well as on Mahesh Kumar Gupta (supra) and ANS Gupta & Sons (supra) supports this view. As held by the Tribunal in multiple cases, mere increase in cash sales during a specific period is not sufficient ground to treat the same as non-genuine, particularly when no discrepancy is pointed out in stock register, purchase bills, VAT/GST records or other supporting documents. There is no adverse inference on the overall gross profit or net profit rate. Books of accounts are audited and no specific defect is identified. In the present case, the AO has accepted the profits declared and even the overall sales. However, he has selectively disbelieved a part of the cash sales, without rejecting the books as a

whole or bringing any contrary material to support the allegation of accommodation entries or fictitious sales. Therefore, in our considered view, the addition of Rs.1,56,60,500/- made u/s 69A is not sustainable and is liable to be deleted.

In light of the above finding, the alternate ground regarding rate of tax u/s 115BBE becomes academic and is not adjudicated upon.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 9th day of October, 2025 at Chennai.

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated : 09-10-2025

RSR

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF