आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /**ITA No.08/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2017-18)

Mohammad Habeeb Uddin, 11-2-323-Cross Bazaar, Ghat, Hyderabad, Telangana – 500004. PAN: AAQPH8462F	Vs.	Income Tax Officer, Ward-7(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Sri Rajesh Vaishnav, CA	
राजस्व द्वारा/Revenue by:	Sri Posu Babu Alli, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	20/08/2025	
घोषणा की तारीख/Date of Pronouncement:	08/10/2025	

आदेश / **ORDER**

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee is directed against the order passed by the CIT(Appeals), NFAC, dated 30.12.2019 for the assessment year 2017-18. The assessee has assailed the impugned order on the following grounds of appeal before us:

"1. The Hon'ble CIT(A) erred in upholding the Ld. AO's order, which is bad in law and against the principles of equity and natural justice.

2. The Hon'ble CIT(A) had erred in affirming the order of the Ld. AO based on both the facts and legal framework of the case, without conducting a thorough examination of the factual and documentary evidence submitted by the Appellant.

3. The Hon'ble CIT(A) erred in treating the deposit of Specified Bank Notes (SBNs) as an unexplained money us 69A and taxing under the provisions of Section 115BBE of the Act without considering the legal arguments and factual evidence submitted by the Assessee.

4. The Hon'ble CIT(A) has erred in upholding the order passed Ld. by AO initiating penalty u/s 271AAC and imputing interest u/s 234A, 234B and 234C of the Act.

5. Without prejudice to the above, it is humbly prayed that the matter be remanded to the Ld. AO to allow the Appellant to furnish any detailed information required related to cash deposit during the demonetisation period. This will provide the Appellant a fair opportunity to present in-depth factual evidence to clarify the matter. The Appellant has consistently been compliant, and the present issue has arisen solely due to a misinterpretation of the facts, with no malafide intentions."

2. Succinctly stated, the assessee is a wholesale dealer in atta, maida, rawa, sugar and vanaspati and carrying on the business as a sole proprietor under the name and style of, viz. M/s Diamond Agencies. The assessee had filed his return of income for the AY 2017-18, declaring an income of Rs. 5,59,540/-.

3. Survey proceedings were conducted at the business premises of the assessee on 01.03.2017 U/s 133A of the Act. During the course of the survey proceedings, the A.O observed that the assessee had during the demonetisation period, i.e., 09.11.2016 to 31.12.2016 made cash

deposits in Specified Bank Notes (SBN's) in his bank accounts aggregating to Rs. 1,00,08,000/-.

4. The A.O. on a perusal of the cash book of the assessee, observed that the assessee had a csash balance of Rs. 11,91,255/- as on 08.11.2016. Thus, the A.O after allowing the availability of SBN's of Rs. 11,91,275/- (supra) with the assessee during the pre-demonetisation period, i.e., on 08.11.2016, held the balance cash deposits of Rs. 88,17,000/- as having been sourced out of his unexplained money U/s 69A, of the Act.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A). The CIT(A) found no infirmity in the view taken by the AO, and observing that the assessee had failed to come forth with any plausible explanation regarding the source of the cash deposits made in his bank account during the demonetisation period, i.e., 09.11.2016 to 31.12.2016, upheld the addition made by him.

6. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

7. We have heard the Ld. Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on

record, as well as considered he judicial pronouncements preseed into service by the assessee's counsel.

8. Shri. Rajesh Vaishnav, the Ld. Authorized Representative (for short, "AR") for the assessee, at the threshold of the hearing of the appeal, submitted that there is a delay of 229 days in filing the present appeal before the Tribunal. Elaborating on the reason leading to the delay in filing the appeal, the Ld. AR took us through an application filed by the assessee seeking condonation of the delay involved in filing of the present appeal, which was further supported by an "affidavit". The Ld. AR submitted that the delay in filing the appeal had crept in because the assessee's earlier tax consultant had failed to attend to the proceedings before the CIT(A) and also did not communicate the passing of the appellate order to the assessee. The Ld. AR submitted that the assessee became aware of the disposal of his appeal by the CIT(A) only when a new consultant was engaged for subsequent compliance, and immediately thereafter the appeal was filed by him. The Ld. AR submitted that as the delay in filing the appeal had occasioned for no fault on the part of the assessee, therefore, the same in all fairness be condoned.

9. We have carefully considered the explanation of the assessee regarding the delay of 229 days involved in filing the present appeal by

him. The explanation is supported by an “affidavit”, which, we find had not been controverted by the Revenue. WE find that the assessee did not gain by filing a belated appeal, nor is there any material to suggest any mala fide intent on his part. In our considered view, there is substance in the assessee’s claim that the delay involved in filing the present appeal is attributable only to the professional lapses on the part of his earlier consultant.

10. We find that the **Hon’ble Supreme Court** in its recent order in **Vidya Shankar Jaiswal vs. CIT [Civil Appeal No. 11060 of 2016, dated 30.09.2016],** in the backdrop of the facts involved in the case before them, wherein delay in filing the appeal before he Tribunal had occurred due to lapse of the assessee’s counsel, observed, that such delay deserves to be condoned, since substantial justice must prevail over technicalities. The Hon’ble Apex Court had observed that a liberal and justice oriented approach should be adopted while considering an application filed by an appellant seeking condonation of the delay involved in the appeal filed by him.

11. Applying this principle, and keeping in view that refusing to condone delay would result in foreclosing adjudication on merits, we are of a firm conviction that sufficient cause leading to the delay in filing of the present

appeal has been shown. Accordingly, we herein condone the delay of 229 days involved in filing the present appeal before us.

12. Apropos the merits of the case, we have heard the rival submissions and examined the material on record. We may herein observe that it is undisputed that the AO, while framing the assessment, has not rejected the books of account of the assessee. On the contrary, we find that the returned income based on the profit disclosed by the assessee in his "Profit and loss account" rather forms the very basis for making the addition and quantifying the assessed income of the assessee for the subject year. This being the position, we are of the considered view that the explanation of the assessee that the subject cash deposits (SBN's) made during the demonetisation period, i.e., 09.11.2016 to 31.12.2016 in his bank accounts, were sourced from the cash sales carried out by him during the demonetisation period could not have been discarded without rejecting his books of accounts.

13. As is discernible from the record, the assessee had in the course of the assessment proceedings, produced day-to-day cash book and ledger extracts, which demonstrated cash sales corresponding to the deposits made by him in his bank account during the demonetisation period. We find that the cash sales recorded in the books of accounts of the

assessees are consistent with his statement recorded during the course of the survey proceedings, wherein he had admitted daily sales of Rs. 1.5 lacs to Rs. 2.5 lacs, which, as stated by him, comprised 20% cash sales. We find that the cash deposits made by the assessee during the demonetisation period are broadly in line with such cash sales and, thus, the explanation of the assessee regarding the source of the cash deposits made on his bank accounts during the said relevant period cannot be summarily brushed aside.

14. We may herein once again observe that once the books of account of the assessee are accepted and not rejected under section 145(3), then the sales recorded therein stand admitted. Consequently, the cash generated from such sales during the demonetisation period constitutes an explained source of the cash deposits made by the assessee in his bank accounts during the demonetisation period. The AO, having accepted the profits from sales as the basis for computation of the business income, could not, at the same time, treat the cash component of such sales as the unexplained money of the assessee under section 69A of the Act. We are of firm conviction that such a contradictory approach is legally impermissible.

15. We may herein observe that the authorities below have proceeded on the footing that since SBNs were not a legal tender after 08.11.2016, therefore, the assessee could not have accepted the same in lieu of the sale consideration received by him in the course of his business. In our considered view, this approach adopted by the AO is flawed. If the assessee, in violation of RBI/Government notifications, accepted SBNs as consideration for sales on or after 09.11.2016, then such a violation may attract consequences under the specific law governing demonetisation. However, for the purposes of the Income-tax Act, what is relevant is the source of cash, not the validity of the currency as legal tender. As observed by us hereinabove, now when the AO himself by not rejecting the books of accounts of the assessee, had accepted the assessee's claim that the cash deposits made in his bank account were sourced from the cash sale proceeds received by him in SBN's during the demonetisation period, then, adverse inference cannot be drawn merely because the said sale consideration was received by him in the form of SBNs. We, thus, are of the considered view that the deposits made by the assessee in his bank accounts during the demonetisation period out of the sales duly recorded by him in his books of account cannot be treated as unexplained money under section 69A, so long as the books of account are not rejected and sales are accepted for income computation. We say

so, for the reason that the revenue cannot treat the same sum both as the assessee's business turnover and again as his unexplained money under Section 69A of the Act.

16. We thus, in light of our aforesaid observations, herein conclude that the addition of Rs. 88,17,000/- made by the AO under section 69A cannot be sustained and is liable to be vacated.

17. In the result, the appeal of the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 08th day of October, 2025.

Sd/- **(MANJUNATHA G.)** **ACCOUNTANT MEMBER**	**Sd/-** **(RAVISH SOOD)** **JUDICIAL MEMBER**

Hyderabad,
Dated 08th October, 2025
OKK / SPS
Copy to:

S.No	Addresses
1	Mohammad Habeeb Uddin, 11-2-323-Cross Bazaar, Ghat, Hyderabad, Telangana – 500004.
2	Income Tax Officer, Ward-7(1), Signature Towers, Sy. No. 6(p) of Kondapur, Sy. No. 37(p) of Kothaguda, Opp. Botanical Gardens, Serilingampally (M), Telangana – 500084.
3	The Pr. CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad