

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.1219/Bang/2024
Assessment Year: 2017-18

Dinesh Papoo Melwani, 8, Century Plaza, 294/7, K Kamaraja Road, Bengaluru – 560 042. PAN – AEYPM 3466 Q	Vs.	The Income Tax Officer, Ward – 1(2)(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri K.R Pradeep, Advocate
Revenue by	:	Shri Balusamy N, JCIT (DR)

Date of hearing	:	30.07.2025
Date of Pronouncement	:	08.10.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order of the NFAC, Delhi vide order dated 15/05/2024 in DIN No.ITBA/NFAC/S/250/2024-25/1064888332(1) for the assessment year 2017-18.

2. This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals), NFAC, confirming the addition made by the Assessing Officer for AY 2017-18.

3. The assessee filed his return of income declaring ₹17,18,000. The case was selected for scrutiny and notices under section 143(2) and

142(1) were issued. During the course of assessment, the Assessing Officer noticed that the assessee had deposited ₹61,98,000 in bank accounts during the demonetisation period. The Assessing Officer required the assessee to explain the source of deposits. The assessee submitted reconciliation of cash sales, deposits, withdrawals, and advances. On examination, the Assessing Officer found that there was an abnormal rise in cash sales and advances during month of October and November 2016. He held that the average monthly sales between April and September 2016 were only about ₹1,34,205.00 only. In contrast, the assessee had shown very high cash sales in October and November 2016. Similarly, the assessee also claimed to have received cash advances in excess during the same period. The Assessing Officer was not satisfied with the explanation. He held that the assessee had not furnished verifiable documentary proof for such large sales and advances. He therefore treated the excess cash of ₹44,42,255 as unexplained cash credit under section 68 of the Act. The assessment was completed by making this addition.

4. The assessee carried the matter in appeal. The Id. Commissioner of Income Tax (Appeals) considered the materials on record and confirmed the addition. The Id. Commissioner noted that the assessee had deposited ₹61,98,000 during demonetisation. The Assessing Officer had asked for reconciliation of sales and deposits. The assessee submitted reconciliation statements. On perusal, it was noticed that the assessee had considered cash sales higher than the figures reported in VAT returns. The Id. Commissioner observed that the assessee had revised VAT returns for October and November 2016 after

demonetisation. As per VAT return, sales for November 2016 were ₹24,46,641, but in the working the assessee considered ₹42,80,281.00 only. The Id. Commissioner held that such variation was not explained. He further observed that from April to September 2016, the total sales were ₹8,05,228, which meant an average of ₹1,34,205 per month only. However, in October and November 2016, the assessee had reported cash sales of ₹32,37,059 which was abnormally high and could not be accepted.

5. The Id. Commissioner also considered the claim of cash advances. It was found that from April to October 2016, the assessee had received total cash advances of ₹26,89,381, which averaged ₹3,84,197 per month. But in November 2016 alone, the assessee claimed to have received ₹18,43,000 as cash advance. Though ledger extracts were filed, no details like names of customers, addresses, PAN, or receipts were produced. Without such proof, the claim could not be accepted. Accordingly, the Id. Commissioner held that the assessee had shown abnormal cash sales and advances in October and November 2016 without proper evidence. He therefore confirmed the addition of ₹44,42,255 as unexplained cash credit under section 68 of the Act.

6. Being aggrieved by the order of the learned CIT-A, the assessee is in appeal before us.

7. Before us, the learned Authorised Representative submitted that the assessee had in fact filed a detailed Paper Book consisting of 350 pages. The Paper Book contained bank statements of Citi Bank, State

Bank of India, and Punjab National Bank, VAT returns, sales registers, cash book, reconciliation statements, ledger extracts of customers, details of advances, closing stock, ITR, tax audit report, balance sheet and schedules. It was argued that these documents were filed both before the Assessing Officer and the Id. CIT-A. However, the authorities did not properly verify them. It was submitted that sales were duly recorded in books and VAT was paid. Once VAT returns were accepted, the sales could not be disbelieved under the Income Tax Act without examination of records. It was further contended that section 68 of the Act cannot be applied to recorded sales. Reliance was placed on judicial precedents. It was argued that the assessee had discharged the onus by filing primary evidences and that the authorities had failed to appreciate them. The learned Authorised Representative prayed that the addition be deleted. In the alternative, he submitted that the matter may be remanded to the Assessing Officer for fresh adjudication after proper verification of the Paper Book. The learned AR also filed a screenshot of the acknowledgements for having filed the necessary details before the authorities below.

8. The learned Departmental Representative, on the other hand, supported the orders of the Assessing Officer and the Id. CIT-A. It was argued that the assessee had failed to furnish independent documentary evidence like names, PAN, or receipts of customers who had given advances. The sudden increase in sales and advances during demonetisation was not explained. The revised VAT returns filed after demonetisation were unreliable. The Departmental Representative submitted that sufficient opportunities were given, but the assessee

failed to discharge the burden. It was therefore contended that the addition made under section 68 was justified and the appeal should be dismissed.

9. We have considered the submissions of both parties and examined the records. The Assessing Officer made addition of ₹44,42,255 as unexplained cash credit under section 68 of the Act on account of excess cash sales and advances shown in October and November 2016. The Id. CIT-A confirmed the addition on the ground that the assessee failed to prove the genuineness of such sales and advances. However, from the record, we find that the assessee had filed a detailed Paper Book containing bank statements, VAT returns, sales registers, reconciliation statements, ledger extracts of customers, and other supporting documents. It appears that these documents were available before the authorities, but no proper verification was carried out.

9.1 The claim of the assessee is that the cash sales and advances are duly recorded in books and also reflected in VAT returns. If that is so, section 68 may not have been applied in the given facts and circumstances. At the same time, the concern of the Assessing Officer regarding sudden increase in cash sales and advances in October and November 2016 cannot be ignored. Such issues require proper verification of records. In the interest of justice, we are of the opinion that the matter needs to be examined afresh. We therefore set aside the order of the Id. Commissioner of Income Tax (Appeals). The matter is restored to the file of the Assessing Officer. The Assessing Officer shall

verify the evidences in the Paper Book, reconcile cash sales and advances with VAT returns and bank deposits, and decide the issue afresh in accordance with law. The assessee shall cooperate and file all evidences again, if required. We make it clear that we have not expressed any opinion on merits of the case. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

10. The second issue raised by the assessee relates to the addition under section 41(1) of the Act of ₹2,71,701.00 only. The Assessing Officer found that the assessee had shown a sundry creditor in the name of M/s Chowlur Jewellers. No confirmation was filed. Accordingly, the Assessing Officer held that the liability no longer existed and made the addition under section 41(1) of the Act. The Id. Commissioner of Income Tax (Appeals) confirmed the addition.

11. Before us, the Authorised Representative submitted that confirmation could not be filed as the proprietor of M/s Chowlur Jewellers had expired on 15 March 2016. It was contended that the Assessing Officer could have verified the matter by issuing notice under section 133(6) of the Act. It was further argued that the liability was never written off in the books of accounts, and hence provisions of section 41(1) were not applicable. Reliance was placed on the judgment of the Hon'ble Punjab and Haryana High Court in the case of CIT v. GP International Ltd., 325 ITR 25. The Authorised Representative prayed for remand of the issue.

12. On the other hand, the Id. Departmental Representative did not object to the matter being set aside to the file of the Assessing Officer for fresh verification.

13. We have considered the submissions. The addition was made only because no confirmation was filed. It is explained that the creditor had expired. The liability is still shown in the books. There is merit in the argument that section 41(1) can be invoked only when liability ceases or is written off. At the same time, verification of facts is required. In the interest of justice, we set aside this issue also to the file of the Assessing Officer. The Assessing Officer shall verify the existence of the liability and decide afresh after giving opportunity to the assessee. Hence, the ground of appeal of the assessee is hereby allowed for statistical purposes.

14. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in court on 8th day of October, 2025

Sd/-
(SOUNDARARAJAN K)
Judicial Member

Sd/-
(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 8th October, 2025

Vms

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore