

IN THE INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCH "B", JAIPUR
**BEFORE SHRI GAGAN GOYAL, ACCOUNTANT MEMBER AND
SHRI NARINDER KUMAR, JUDICIAL MEMBER**
ITA No. 1364/JPR/2024 (A.Y. 2017-18)

Pooran Mal Yadav,
Dhani Bihari Wala, VPO
Ghansipura, Shahpura,
Jaipur 303 103
PAN No. AAVPY 8763H

..... Appellant

Vs.

ITO, Ward 5(5),
Jaipur

.....Respondent

Appellant by : Mr. Shrawan Kumar Gupta, Adv., Ld. AR
Respondent by : Mr. Gaurav Awasthi, JCIT, Ld. DR
Date of hearing : 25/09/2025
Date of pronouncement : 25/09/2025

ORDER

PER GAGAN GOYAL, A.M:

This appeal by the assessee is directed against the order of NFAC, Delhi dated 20.09.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act').The assessee has raised the following grounds of appeal: -

1. The impugned assessment order u/s. 143(3) dated 27.12.2019 as well as the notice issued 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.

3. Rs. 80, 31,000/-: The Id. CIT (A) has grossly erred in law as well as on the facts of the case in confirming the addition of Rs. 80, 31,000/- made by the Id. AO on account of alleged cash deposits in the bank account of the assessee during the Demonetization period in SBN Notes as alleged unexplained cash credit u/s 68. 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 and confirmed by the Id. CIT (A) 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.

3. 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 illegal, bad in law, against the principle of natural justice the same may kindly be deleted in full.

4. 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.

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

2. The brief facts of the case are that the assessee is individual filed his return of income on 19.12.2017 declaring total income at Rs. 15, 58,880/- the case of the assessee was selected for scrutiny. As per information available with the AO the assessee had deposited cash of Rs. 93, 64,670/- in his account maintained with HDFC bank during the demonetization period. The assessee is running petrol pump of Essar Oil deals with diesel and petrol. On perusal of bank account statement, online reply filed by the assessee and details filed during course of assessment proceedings, it is noticed that during the period of demonetization, i.e. between 9th Nov. to 30 Dec. 2016, the assessee deposited cash of Rs.

93,64,670/-. Further, in response to the notice u/s 142(1) dated 05.9.2019, it was submitted by the assessee that a total of Rs. 80, 31,000/- was deposited in old currency notes of 500/- and 1,000/- (referred to as SBN). **As per the Gazette Notification of the Ministry of Finance, Dept. of Economic Affairs, on 8th Nov., 2016, and subsequent notifications, only the petrol pumps operated under the PSUs Oil and Gas companies were allowed to accept these SBNs, and the assessee was neither of such entities. As per the Gazette Notification of the Ministry of Finance, Dept. of Economic Affairs, on 8th Nov., 2016, and subsequent notifications, only certain entities were allowed to accept these SBNs against sale of goods only.**

3. Based on above facts the assessment of the assessee was completed after making addition of Rs. 80.31 lacs u/s. 68 of the Act. The assessee being aggrieved with the same preferred an appeal before the Id. CIT (A) who in turn confirmed the order of the AO and dismissed the appeal of the assessee. The assessee being further aggrieved preferred the present appeal before us. We have gone through the order of the AO, order of the Id. CIT (A) and submissions of the assessee along with grounds taken before us.

4. We have gone through the audited financials of the assessee and observed that the amount of cash deposited was duly recognized in the sales declared by the assessee and following details were also furnished by the assessee before the AO.

- a. Bank Statement for F.Y. 2016-17 of HDFC Current Account bearing account no. 10768620000147.
- b. Income Tax Return, Computation and Audited Financial Statements for A.Y. 2017-18.
- c. Monthly Sales & Purchases details.
- d. Reply Submitted to Cash Transaction 2016.
- e. Saving account statement of assessee maintained in SBI and HDFC for F.Y. 2016-17.
- f. Comparative analysis of the cash sales and cash deposited to the bank account during the demonetization period and the months prior to demonetization period / same period in the earlier years. Extracts of Sales Register, Purchase Register and Stock register - refer letter dated 29 November 2019 filed during the course of assessment proceedings.
- g. Deposit slip regarding cash deposit during demonetization period showing old currency and new currency along with a certificate from the bank.

5. We have gone through the order of the AO and the Ld. CIT (A) and it is observed that there are no comments on the books of accounts maintained by the assessee, i.e. found to be reliable and no deficiency pointed out either in specific or made out the case for application of the provisions of section 145 of the Act. It is pertinent to mention here that sales made by the assessee were out of the stock available during the demonetization period and there is no question on availability of stock and sales thereon. If one goes by the logic of addition adopted by the AO, it will be tantamount to double addition, i.e. profit element declared in the sales offered for tax and then by virtue of Govt. of India notification again addition u/s. 68 of the Act.

6. A pragmatic view must be taken by the AO, as during the demonetization period, no doubt public was spending in SBNs as far as possible and railway tickets, petrol pumps and medicine shops were the main destinations as the same are in exempted categories. If the assessee denies accepting the SBNs, certainly he will lose the business, and the customers will go to the neighbouring filling stations. This was not the agenda of demonetization; the agenda was well defined and circulated amongst the public also. As far as violation of the notification issued by the Department of Economic Affairs, Ministry of Finance, Govt. of India, dated: 08.11.2016 is concerned, it is no where concerned with the Income Tax affairs and the max the AO may report the same to the regional office of the Reserve Bank of India (R.B.I.) for appropriate action, if any.

7. The assessee being governed by the strict rules and regulation for dealing with highly inflammable items and duly registered with the State Govt.'s District Supply Officer, Jhalawar (Copy of Registration Attached), it can be reasonably assumed that other than the State VAT Deptt. And Income Tax Deptt., the assessee is subject to verification of stock, purchase, sales etc. by the office of the District Supply Officer also. In addition to this, usually in any district the filling stations are the main source of organised VAT collection and subject to strict scrutiny by the VAT Deptt. It is astonished that wherever we dealt with the matter pertaining to demonetization period, the AO always tried to put results in doubts by virtue of fluctuation in sales, opening cash balance etc. But, here in this matter no such working has been done by the AO, which may justify the addition based on factual working done by him. Here he simply relied on the notification

mentioned (supra) and made the additions without pointing out any deficiency or error in the books of accounts maintained by the assessee. In view of the above, the order of the AO is found to be non-sustainable in the eyes of law, **hence ground no. 1 raised by the assessee is allowed and the AO is directed to delete the addition of Rs. 80.31 Lacs made u/s. 68 r.w.s. 115BBE of the Act.**

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

The Order is pronounced in the open court on the 25th day of September 2025.

Sd/-

Sd/-

(NARINDER KUMAR)
JUDICIAL MEMBER

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Jaipur, दिनांक/Dated: 25/09/2025

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., Sr.DR., ITAT,
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Jaipur