IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

(HYBRID COURT)

BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER

I.T.A. No. 650/Asr/2024
Assessment Year: 2017-18

Balwinder Singh Muglu Ki Patti Baghapurana, Moga-142001 Punjab [PAN: FWKPS 7488P] **(Appellant)**	Vs.	Income Tax Officer, Ward-1, Moga **(Respondent)**

Appellant by	:	Sh. Sudhir Sehgal, A. R.
Respondent by	:	Sh. Charan Dass, Sr. D.R.
Date of Hearing	:	12.11.2025
Date of Pronouncement	:	11.12.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the ld. CIT(A) NFAC, Delhi dated 30.10.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the ITO, Ward-1, Moga passed u/s 144 of the Act, dated 06.12.2019.

2. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

> *"1. In the facts and circumstances of the case and in law, the Ld. CIT(A), National Faceless Appeal Centre (NFAC) has erred in confirming the action of the Ld. AO, in making addition of Rs.26,73,000/- as unexplained money, under Section 69A. The action of the Ld. CIT(A), NFAC is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the addition of Rs 26,73,000/- made under section 69A of the Income-tax Act, 1961.*
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> *2. In the facts and circumstances of the case and in law, the Ld. CIT(A), NFAC has erred in confirming the action of the Ld. AO, in invoking provisions of Section 115BBE of the Income-tax Act, 1961. The action of the Ld. CIT(A), NFAG is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted hy quashing the invocation of Section 115BBE, as being not in accordance with the relevant law.*
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> *3. The assessee craves his right to add, amend or alter any of the grounds an or before the hearing."*

3. Brief facts of the case are that the assessee is an agriculturist and his only source of income is from agricultural activities. On the basis of information available on ITBA Module that the assessee has deposited an amount of *Rs.27.73 lakhs* in his bank account during the demonetization period with *Corporation Bank A/c No. xxxxx 150049* and no return of income has been filed, notices has been issued u/s 142(1) against which the assessee has filed documentary evidences stating the fact that he is an owner of *seven acres of agricultural land* where agricultural activities takes place in support of which the assessee has also filed *J-Form* pertaining to the relevant assessment year but

the assessment was completed with an addition of Rs. 27.73 lakhs u/s 69A of the Act due to insufficiency of valid source of deposit.

4. The matter carried in appeal before the ld. first appellate authority has been dismissed by observing as follows:

> *"5.3.4 In view of the above discussion and the case laws relied, it is held that the AO correctly held that the assessee failed to discharge the onus vested on him. However, in the remand report, the AO submitted that the cash deposited by the assessee on 10.11.2016 was Rs. 26,73,000/- instead of the addition made at Rs. 27,73,000/- is valid and acceptable. Therefore, the appellant gets relief of Rs. 1,00,000/- and the addition of Rs.26,73,000/- is confirmed as the source of which remain unexplained and unsubstantiated. Appellant gets part relief. All the grounds raised in this appeal are partly allowed."*

5. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. In course of hearing, before the Tribunal, the ld. AR of the assessee submitted that the assessee has made cash deposit of Rs. 26.73 lakhs on 10.11.2016 in his *Agricultural Credit A/c No. xxxxxx150049* where the assessee, enjoys the facility of crop loan account (*copy of bank statement furnished in page no. 9 to 21 of the paper book*). He further pointed out that an amount of Rs.30 lakhs was withdrawn by the assessee in cash from the same bank on 26.04.2016, and being a farmer he has got only agricultural income which is the only source and he never maintained any record of income or expenditure and has never filed his return of income. He further stated that apart from his own land on which cultivation takes place

he has also taken agricultural land on lease, and in support, he referred to the agreement for hypothecation of crops made with the bankers where the working limit of Rs.30 lakhs has been granted to the assessee by the bankers. He further submitted that the cash deposit on *10th November, 2016* is the same cash that has been withdrawn earlier by the assessee which has never been utilized by him and there is no findings by the department regarding the utilization of the said cash. In support of his contention, the assessee relied on various decisions of the jurisdictional High Court and on the decision of co-ordinate Bench of the Amritsar Tribunal and also on Chandigarh Bench of the Tribunal are as follows:

> ***"Shiv Charan Dass vs. CIT as reported in 126 ITR 263 (P& H HC)*** *in this regard, it has been held by the Hon'ble Jurisdictional High Court that the onus is on the Department to show that the explanation of the assessee should not be accepted. Further, it is trite that nobody can be asked to prove a negative, as was sought to be done by the AO.*
>
> ***Reliance is placed on the judgement of Income Tax Appellate Tribunal, Amritsar Bench in the case of Smt. Sandeep Kaur w/o Sh. Sukhpal Singh vs. ITO in ITA No. 157/Asr/2022*** *wherein your goodself has held that:*
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> > *"6. We heard the rival submission and relied on the documents available in the records. The Id. Counsel had agitated two issues, one is source of cash deposit in the bank and the calculation of the tax by utilizing the provision u/s 11588E which was applied on the assessee for addition uls 69, The Id. Counsel in submission explained the deposit of cash in four stage Rs.4 lac was deposited as per the instruction of the CBDT which the assessee is eligible to retain cash for her own purpose. Related to deposit of agricultural Income, the assessee in both the stages submitted the Khairo*

Girdawari and copy of Jamabandi of agricultural land which are annexed in the APB in page no. 9 to 16 and 17 to 19. Related Rs. 4,91,000/- was withdrawn on 17.07.2015 and Rs.2,25,000/- was withdrawn on 28.04.2016 from Bank of India. The copy of the bank statement also attached in page no. 2 to 6 of APB. The assessee had also taken the gold loan and reflected in the bank account, also annexed in page no. 7 to 8 of APB. So, the entire amount was duly explained at source for depositing the cash in the bank account. The Id. Sr. DR was not strongly made any objection in relation to the fact of the cases which was duly explained by the assessee. The next issue of the assessee is related to implication of tax u/s 1158BE r.w.s section 69. The Id. Counsel has respectfully referred the order of the Coordinate Bench of ITAT, Chandigarh, In the case of Ganthi Ram Vs. PCIT ITA No. 121/Chd/2021 date of order 04.08.2022. the observation of the bench in relevant para 8 page 10 is extracted as below:

Ld. PCIT has arrived at a conclusive finding that the discrepancies found, confronted and accepted by the assessee during the course of survey attract the deeming provisions of section 68, 69, 694, 698 & 69C is not apparent from the impugned order. Merely stating that excess cash is clearly covered uls 68 or 694, excess stock is covered u/s 69 or 698, construction of Shed/Godown is covered u/s 698 or 69C and advances made to Sundry Parties is covered uls 69, 698 or 690 is like an open ended hypothesis which is not supported by any specific finding that the matter shall fall under which of the specific sections and how the conditions stated therein are satisfied before the sold provisions are invoked. It is like laying a general rule, which to our mind is beyond the mandate of law, that wherever there is a survey and some income is detected or surrendered by the assessee, the deeming provisions are attracted by default and by virtue of the same, provisions of section 11588E are attracted. The Id PCIT has to record his specific findings as to the applicability of the relevant provisions and how the explanation called for and offered by the assessee is not acceptable in the facts of the present case which is clearly absent in the instant case. Therefore, where the id PCIT himself is not clear about the applicability of relevant provisions and in the same breath holding the Assessing officer to task by not invoking the said provisions is clearly shooting in the dark which cannot be sustained in the

eyes of law and the order so passed therefore cannot be held as erroneous in the eyes of law."

On thoughtful consideration, the implication of Section 115BBE is not relevant for the assessee.

6.1 The Id. Counsel had not pressed the ground no. 2. Accordingly, ground no. 1,3,4,58 6 ore allowed. Ground No. 7 is general in nature. Therefore, the addition amount of Rs. 10,65,000/- is quashed.

7. in the result, the appeal bearing ITA No. 157/Asr/2022 is allowed."

Ravinder Singh Negi vs. DCIT in ITA No. 811 & 812/Chd/2014 (Chandigarh Bench)

"12(iv) Considering the above discussion, it is proved by the assessee on record that assessee has made cash withdrawals during the year under consideration from various banks in a sum of Rs. 7.65 Cr and made re deposit of cash of Rs. 4.30 Cr in the same year out of such cash withdrawals. Thus, assessee proved that assessee was having availability of the cash for re-deposit in other bank accounts. The Assessing Officer has not brought any evidence on record to prove that assessee has spent the amount of withdrawn of cash somewhere else. Therefore, in the absence of any adverse material against the assessee on record, authorities below should not have rejected the explanation of the assessee. The onus upon revenue has not been discharged in any manner."

ITO vs. Chandan Nijjer in ITA No. 61/ASR/2016 order dated 08.08.2016 (Amritsar Bench)

"10. Thus, the source of cash deposit of Rs. 50 lacs, Rs.20 lacs and Rs. 25 lacs, on 18.08.2010, 04.09.2010 and 18.11.2010, respectively, was found to be this very cash in hand amount of Rs.1,31,11,293/. Before us, nothing whatsoever has been brought by the Department to rebut this source of the cash deposit, as rightly arrived at by the Id. CIT(A).

11. The Department contends that since the assessee had not disclosed the purpose of withdrawal of cash from bank and usage thereof, the id. CIT(A) ought not to have granted her the benefit of such cash withdrawn from the bank, a long period back. However, there is no legal basis for such stand taken by the department. There is no law warranting any such

requirement for the assessee to make such a disclosure. As per the decision of the Delhi Bench of the Tribunal in the case of 'Mrs. Deepali Sehgal, doted 05.09.2014, in ITA A.Y. 2011-2 No.5660/Del/2012, as correctly taken note of and followed by the Id. CIT(A), it is not mandatory under any law that an individual has to keep his/her savings in the bank account only and not as cash in hand. In Shiv Charan Dass vs. CIT, 126 ITR 263 (P&H), in this regard, it has been held by the Hon'ble jurisdictional High Court that the onus is on the Department to show that the explanation of the assessee should not be accepted. Further, it is trite that nobody can be asked to prove a negative, as was sought to be done by the AO.

1. The department is also wrong in contending that since the assessee is not filing her wealth tax returns regularly, the Id. CIT(A) has erred in accepting that the assessee maintains personal books of account and draws personal balance sheet. Here, it needs to be reiterated that it is the department itself, which has accepted the balance sheets drawn by the assessee in her personal capacity and that for the assessment years 2007-08 to 2011-12, in the wealth tax cases of the assessee, the wealth tax returns fited by the assessee were based on the personal balance sheets of the assessee and it was the same AO who accepted the cash in hand, which was as per the balance sheet of the assessee, for wealth tax purposes.

2. No material has been brought on record by the Department to contradict the well-reasoned findings of fact recorded by the Id. CIT(A).

3. In view of the above, we do not find any infirmity in the well versed, elaborate and reasoned order of the ld. CIT(A), which does not require any interference on our part. Accordingly, all the grounds of appeal of the Revenue are rejected.

4. In the result, the appeal of the Revenue is dismissed."

6. He further submitted on merits of the case that the assessee is the owner of seven acres of agricultural land and has also taken lease of agricultural land holding from one (*Mr. Ajaib Singh 17 acres and Mr. Kulwant Singh 11.63 acres on lease)* which are placed in paper book *page no. 22 to 23* and copies of J-Form as proof of agricultural

income of the assessee is also furnished before us which is also a part of the paper book in page no. *24 to 31*.

7. Apart from the above, the copies of *fard jamabandi* (*paper book pg. no. 32 to 38*) is also on record to prove the agricultural activities and the agricultural income of the assessee. He further relied on the judgment of the *Amritsar Bench in the case of Satbir Singh Bhuller v. ITO in ITA No. 258/Asr/2022* where it has been held that wherever the assessee possesses sufficient land holding which is evident from *jamabandi* and the agricultural operation are also evident from *khasra girdawari* filed the availability of agricultural income of the assessee is proved beyond doubt.

8. As such, the ld. AR submits, considering all the documentary evidences which are on record and already filed before the *ld. CIT(A)* and existence of land holdings and activities of agricultural being carried out on such land supported by bank loans issued to the assessee on the basis of hypothecation of agricultural crops and also taking into account the huge cultivation done by the assessee on *such 29 acres of lease hold-land* plus *7 acres of own land* which are supported by *fard jamabandi* and sample copies of *Forms-J* proving agricultural income, the source of cash deposit of Rs. 26.73 lakhs in the bank account stands explained and may please be accepted.

9. The ld. DR relied on the order of the ld. CIT(A) and submitted that the cash of Rs.30 lakhs which has been withdrawn from the bank account on *26th April, 2016* must

have been utilized by the assessee for the purpose of agricultural activities and the entire amount could not have been available with the assessee for redeposit in the bank account during demonetization period. However, he has not raised any queries regarding the evidence of existence of agricultural land taken on lease and copies of *jamabandi* and J-Form submitted as proof of sale of agricultural produce.

10. We have heard the rival submissions and considered the materials on record and the documentary evidences filed by way of paper book before us which has been certified by the assessee to have been filed before the lower authorities and also to the documentary evidences filed before the bankers for obtaining of short term crop facility loan where details of landholdings are furnished before the bankers plus copy of agreement regarding hypothecation of crops, documentary evidences regarding agreement of leasehold agricultural land, use for cultivation which are again supported by J-Forms regarding sale of crops and copies of *fard jamabandi.*

11. We are of the opinion, that the agricultural activities are indeed carried out by the assessee and the assessee also derives income from agriculture, and we also note that the amount of *Rs.30 lakhs* has been withdrawn in cash by the assessee which is a part of crop loan amount sanctioned by the bankers and even if we consider the argument of the ld. DR that the said cash withdrawn might have been partly used or utilized for the purpose of agriculture expenses, then it is also to be taken into account

that income arising from agricultural activities till the period of Nov., 2016 is also available to the assessee and it out of the said funds available, the deposit of Rs.26.73 lakhs has been made in the bank account during the demonetization period.

12. As such, considering the factual aspect of the matter, we find that the assessee's deposit of Rs.26.73 lakhs during the demonetization period is satisfactorily explained to have come out of agricultural income for the period and also partly out of un-utilized portion of the cash that has been withdrawn six months earlier on *26.04.2016*, all taken together, because the assessee does not maintain any books of account and a reasonable and a logical view has to be taken, considering enormous landholdings and in a case where the agricultural activities has been proved beyond doubt.

13. As such, we delete the addition of Rs.26.73 lakhs being satisfactorily explained to have come out of bank withdrawals in part and partly out of agricultural income for the year from April to Nov., 2016.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 11.12.2025

Sd/-	**Sd/-**
(Manoj Kumar Aggarwal)	**(Udayan Dasgupta)**
Accountant Member	**Judicial Member**

GP/Sr.PS

Copy of the order forwarded to:

(1) The Appellant:
(2) The Respondent:
(3) The CIT concerned
(4) The Sr. DR, I.T.A.T

True Copy
By Order