

**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. 472/Asr/2024
Assessment Year: 2017-18

Kunal Arora,
48-B Joshi Colony,
Amritsar, Punjab-143001
[PAN: ADTPA 9118M]
(Appellant)

Vs.

AO Ward 5(3),
Amritsar

(Respondent)

Appellant by : Sh. Amit Handa, C. A.
Respondent by : Sh. Charan Dass, Sr. D.R.
Date of Hearing : 13.11.2025
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. Addl./JCIT(A)-7, Kolkata dated 19.06.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO Ward 5(3), Amritsar passed u/s 143(3) of the Act, dated 16.12.2019.

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

“1. The assessee is depositing only that amount which was received from cash sales out of business only. The complete cash book and details of cash deposit in bank is filed by assessee with the Ld. Assessing officer and all required information asked by Ld. Assessing Officer is duly submitted. Therefore, the additions are made only on the basis of assumptions and surmises and is not as per law. There is no express provision in the law giving an assumption to declare deposit of old demonetization currency as unexplained income. Therefore, no addition is justified as per section 69A of the Income Tax Act 1961.”

3. Brief facts in this case is that the assessee is engaged in the business of retail distribution of M.S. and HSD, and is running a petrol pump. The only issue in this case is that as per Government Notification during demonetization period, the petrol pump dealers were allowed to accept SBN notes (demonetization currency) during the demonetization period up till 25.11.2016 in respect of 1000 (one thousand rupee) notes. In the instant case, the assessee has accepted 1000 rupee notes even after the stipulated period permitted by the Government of India. He has deposited Rs. 3 lakhs in his bank account on 28th November, 2016, 2 lakhs on 30th November, 2016 and Rs. 19,000/- on 1st December, 2016. The total number of 1000 rupee notes deposited by the assessee after 25th November, 2016 was 519 pieces which is valued at Rs.5,19,000/-. However, the AO has allowed the assessee the benefit of the cash in hand amounting to

Rs.1,53,000/- as on 25.11.2016 as evident from the cash books examined in course of assessment proceedings.

4. Considering the fact that 26th & 27th Nov., 2016 being bank holidays, the assessee was allowed the benefit of Rs.1,53,000/- being the availability of cash as per his cash book (153 pieces of 1000 notes) and the remaining balance of Rs.3,66,000/- being the cash which has been received or accepted by the assessee (in 1000 rupee notes) after the cut-off date of 25.11.2016 directly in violation with the RBI/Central Government directions, which has been subsequently deposited in bank has been added back by the AO as unexplained money u/s 69A of the Act, 61 and taxed as per rates u/s 115BBE.

5. The matter carried in appeal has been dismissed by the Id. first appellate authority, by observing as follows:

“I have gone through the detail assessment order passed by Assessing officer (AO) and details of submission given by appellant.

All grounds points to single issue, therefore considered together.

The fact of the case is appellant had deposited SBN (Specified bank notes) Rs.1,000/- denomination notes in the Bank after 25-11-2016, when the petrol pump dealers were debarred from accepting them, AO after considering the facts submitted by appellant added Rs.3,66,000/- on account of unexplained money.

Appellant had engaged in petrol pump business, which was allowed to receive SBN Notes till 25/11/2016 as per RBI/Central Govt. directives during demonetization. AO had

perused the cash book submitted by appellant and found that appellant had cash in hand of Rs.1,53,715/- as on 25-11-2016. However, appellant had deposited Rs. Rs.5,19,000/- in SBN notes in banks after 25/11/2016. Therefore, it is clear that SBN notes amounting to Rs.3,66,000/- (519000-153000) were received in SBN Notes in violation of RBI/Central Govt directives.

AO can't ignore the cash deposited during demonetization in violation of RBI/Central Govt. directives while completing the assessment particularly for assessment year 2017-18, pertaining to F.Y. 2016-17, the year in which demonetization had taken place. Therefore, appellant's argument that all cash deposited are from sales and duly entered in cash book is not correct.

As above, there is no infirmity in AO's action.

In the result, appeal filed by appellant is dismissed.”

6. Before the Tribunal, the Id. AR of the assessee submitted that the cash that has been deposited after 25.11.2016 are out of regular sale proceeds of the business of the assessee who is running a petrol pump, and the entire receipts has formed a part of the gross sales disclosed by the assessee in his regular books of account and audited balance-sheet. He further submitted that the source of the said deposits in bank account has been proved to have come out of regular sales of *petrol and diesel* and lubricants and since the said sale has already been considered as part of the total turnover disclosed in trading A/c, no further addition should be made and the addition sustained by the Id. CIT(A) may please be deleted more so considering the fact that the regular

books of accounts has not been rejected, and no discrepancy in sales or purchase or stock has been noted and there is no adverse finding in respect of actual sales disclosed.

7. The Id. DR relied on the order of the Id. CIT(A) and has also relied on the cash book filed by the assessee in his *paper book* and has submitted that the acceptance of 1000 rupee notes was allowed by the Central Government in respect of petrol pumps till 25th Nov., 2016 and beyond that day no further notes of 1000 rupee denomination (SBN) were allowed by the Government and these notes ceased to be legal tender after the said date. He further submitted that in the instant case whatever sales in cash that has been made by the assessee are clearly reflected in the cash book, and the balance at close of the business hours as on 25.11.2016, reflects a closing cash balance of Rs.1,53,000/-, and the Assessing Officer has rightly allowed credit or the benefit of such cash in hand as on 25.11.2016, and has disallowed, the remaining deposits of 1000 rupee notes, which has been received from customers and deposited in bank after the said date, being deposit of *SBN notes*, which is perfectly in order and as per the Government direction laid down and he prayed for sustaining the order of the Id. CIT(A).

8. We have heard the rival submissions and considered the materials on record and the cash book submitted before us as part of the paper book, and the audited financials and the submissions filed in course of assessment proceedings. The assessee being a

retail outlet of MS and HSD , was allowed exemption vide Government of India , MOF notification F/No 10/3/2016 dated 08/11/2016 , (*subsequently amended*) to accept specified bank notes (SBN) during demonetization period in currency of *one thousand rupee notes* till 25th November, 2016 and in this case the assessee has accepted 366 pieces of *one thousand rupee notes* even after the cutoff date of 25/11/2016, against sale of petroleum products (MS/ HSD) on 30th November and 1st December, 2016 , and has deposited the same in his bank which was in violation of the said notification, resulting in an addition of Rs. 3,66,000/- u/s 69A of the Act 61, and sustained by the Ld first appellate authority.

9. We also find that the assessee has maintained regular books of accounts, and the cash book has been examined during scrutiny and no adverse inference has been drawn regarding the entries of sales and purchase recorded therein and there is no dispute regarding the matter of in flow and outflow of quantitative stock of *MS / HSD* and closing stock held by the assessee and all purchases through bank channel and sales made to customers has been accepted.

10. We also find from the comparative chart submitted by the assessee that total of cash deposits in bank during FY 2015-16 was Rs. 4.99 crores which compares satisfactorily with the cash deposits for the FY 2016-17 at 5.69 crores (*considering the fact that there has been escalation in price of petroleum products*) and the cash sales

for FY 2015-16 Rs.5.04 crores also compares satisfactorily with cash sales for FY 2016-17 at Rs. 5.73 crores.

11. Further we also take note that the cash deposited in bank during the immediately earlier year for the period 9th November 2015 to December 2015 was Rs.83.34 lakhs which in comparison to cash deposit of Rs. 81.79 lakhs during the period 9th November to December, 2016, is a satisfactory comparison.

12. We also take note that there is no dispute regarding the SALES of goods (*MS and HSD*), in regular course of business and there is no dispute that it is the said SALE proceeds that has been deposited in bank account.

13. We also find that the gross sales disclosed by the assessee in audited accounts is Rs. 8.21 crores for the year under appeal , with a net profit of Rs.7,27,588/- which has been accepted by the AO in scrutiny proceedings and we also note that this net profit has been arrived on a total sale figure of *Rs.8.21 crores as per return* and audited accounts, which means that the AO has accepted the SALES effected by the assessee against the *SBN of Rs. 3,66,000/-* on 30th November and 1st December, 2016 , as genuine sales (*because the sales of Rs. 3,66,000/- has not been reduced from the disclosed gross turnover*), and it is only the acceptance of the old currency (SBN) notes that is disputed, which resultantly follows that sustaining an addition of

Rs.3,66,000/- will result in double addition, simply because the said sale is already included in the gross sales disclosed in the trading A/c.

14. As such on the totality of the facts and circumstances of the case we arrive at a conclusion that the nature and source of cash deposit arising out of a genuine business sales is established and the same is proven and recorded in books of accounts and as such the provisions of section 69A in the instant case is not attracted because it is a violation of an RBI or Government notification (accepting SBN by a non-exempt entity beyond a certain date , does not automatically make the deposit unexplained for tax purpose even though penal consequences for such a violation are there under RBI Act or Specified bank notes (Cessation of Liabilities) Act 2017, which in our opinion will not directly affect the provisions under the Income Tax Act 61, considering that the liability of the Government and the RBI to exchange them till 30th December, 2016 continued and they had monetary value till such date.

15. Similar view has also been taken by the Hon'ble *ITAT, Chennai Bench in the case of "Gopal Sathiyam vs ITO"* dated 30/04/2025, *ITA/582/Chny/2025* where it is held that deposits source cannot be rejected solely because the assessee accepted SBN in violation of RBI notification.

16. As such we are of the view that under the circumstances, the addition of Rs. 3,66,000/- made by the AO u/s 69A, is not legally justified, in the instant case because

the nature and source of the deposit are proved beyond doubt to have arrived out of genuine sales transaction.

17. As such the said addition of Rs.3,66,000/- is deleted.

18. 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/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
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