

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.217/RJT/2024

निर्धारणवर्ष /Assessment Year: 2017-18

Imran Rafikbhai Motanwala Shop No. 22/23, Sardar Patel Marketing Yard, Dolatpara, Junagadh-362037 PAN : AEVPM6429E	बनाम Vs.	The ITO, Ward-3 Junagadh
(अपीलार्थी/Assessee)	:	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Darshit Ranpura, Id.AR

राजस्व की ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Sr-DR

सुनवाई की तारीख/Date of Hearing : 25/11/2025

घोषणा की तारीख/Date of Pronouncement : 15/12/2025

ORDER

Per, Dr. Arjun Lal Saini, Accountant Member:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2017-18, is directed against the order passed by the National Faceless Appeal Centre, Delhi /Ld. Commissioner of Income Tax (Appeals)/ [in short 'Ld.CIT(A)'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 09.02.2024, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Act on 18.12.2019.



2. The Grounds of appeal raised by the assessee are as follows:

“1. The grounds of appeal mentioned hereunder are without prejudice to one another.

2. The Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A)") erred on facts as also in law in confirming addition of Rs.29,60,000/-, made on the alleged ground that the assessee failed to explain sources of cash deposited during demonetization period in the bank accounts held in different bank along with necessary supporting evidence. The addition confirmed is unjustified and uncalled for, which deserves to be deleted, may kindly be deleted.

3. Your Honour's assessee craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.”

3. The relevant material facts, as culled out from the material on record, are as follows. The assessee before us, is an individual and has e-filed his return of income on 22/08/2017, declaring total income of Rs.5,91,030/-. Thereafter, the assessee's case was selected for scrutiny through CASS and accordingly, e-notice u/s 143(2) of the Act was issued on 17.08.2018, which was duly served upon the assessee. Thereafter, e-notice u/s 142(1) of the Act dated issued on 08.05.2019 in form of detailed questionnaire and was duly served upon the assessee. On verification of the above bank accounts, it was noticed by the assessing officer that the assessee has deposited aggregate cash of Rs.3,33,71,000/- during the year under consideration, out of which, an amount of Rs.81,81,500/-, has been deposited during demonetization period (9th November, 2016 to 30th December, 2016). During the demonetization period, the assessee has deposited aggregate of Rs.81,81,500/- out of which Rs.32,10,000/- is in SBN note: The details of the SBN notes during demonetization period are as under:



A/c. No. 0238002100026677 of Punjab National Bank, Diwan Chowk, Junagadh			
Date	No. of denomination notes		Total (In Rs)
	Rs.500	Rs.1000	
10/11/2016	400	300	500000
11/11/2016	400	200	400000
12/11/2016	800	190	590000
13/11/2016	450	0	225000
14/11/2016	390	0	195000
15/11/2016	400	20	220000
16/11/2016	200	100	200000
17/11/2016	190	100	195000
18/11/2016	400	30	230000
19/11/2016	284	18	160000
21/21/2016	170	10	95000
1/12/2016	300	0	150000
6/12/2016	100	0	50000
		Total	3210000

During the assessment proceedings, the assessing officer issued e-notices u/s 142(1) of the Act asking the assessee to explain the cash deposited during the demonetisation period. In response to e-show cause notice, the assessee filed e-submission as well as manually along with details/documents etc, before assessing officer on 10.12.2019. On verification of the details furnished, it was found that the assessee derives income from sale of Seasonal Fruits business, in which he get commission income from their owner. The assessee has not filed any agreement/order of such activity relating to his business.



4. However, the assessee filed written submissions before the assessing officer and claimed that the assessee carried out the business of purchase and sale of seasonal fruits and earned commission. The assessee's commission is fixed by verbal conversation with vendors of Jammu and Kashmir. The assessee, retains commission on sale amount and balance proceed paid to vendors through banking channel. For payment to vendors the assessee deposited cash into bank account with Punjab National Bank. The allegation of assessing officer at para 5 of the assessment order that the assessee has accepted SBN note for sale of fruits during demonetization period is not true. The assessee has cash on hand as on 09.11.2016. This fact was reflected in cash book, submitted to the assessing officer vide submission dated 10.12.2019. The assessee has submitted cash book to the assessing officer and cash balance before demonetization is to be taken from cash book. The cash on hand before demonetization i.e., as on closing of 08.11.2016, is of Rs.33,95,214. The assessee claimed that during the demonetization period (09.11.2016 to 31.12.2016), the assessee had deposited total of Rs.83,02,500/- in Punjab National Bank and Rs.2,50,000/- in Axis Bank. Out of this an amount Rs.32,10,000/- deposited in SBN in PNB and Rs.2,50,000/- deposited in SBN in Axis Bank. The assessee has submitted before the assessing officer that entire cash deposited in the bank account, were out of business income and out of past savings of the assessee.

5. However, the assessing officer rejected the above contention of the assessee and observed that on verification of bank statement of the bank account of the assessee, A/c no. 238002100026677 of Punjab National Bank, Junagadh, it was noticed that the assessee has deposited aggregate cash of Rs.3,33,71,000/- during the year under consideration, out of which, an amount of Rs.81,81,500/- has been deposited during demonetization period (9th



November, 2016 to 30th December, 2016). During the demonetization period, the assessee has deposited aggregate of Rs.81,81,500/- out of which Rs.32,10,000/- is in SBN note. And on verification of another bank statement of A/c No. 252010100043713 of Axis Bank, Junagadh, the assessing officer noticed that the assessee has deposited aggregate cash of Rs.2,50,000/- in his savings bank account of Axis Bank on various dates during demonetization period in SBN note. The assessing officer noted that the assessee has deposited total cash of Rs.34,60,000/- i.e. (Rs.32,10,000/- Rs 2,50,000/-) in his above two bank accounts during demonetization period in SBN note. The assessing officer further noted that during the course of assessment proceeding, the assessee has submitted ledger account, profit and loss account, balance sheet for F.Ys.2015-16 and F.Y.2016-17 and the assessee has also submitted the commission income ledger & cash book for relevant financial year. On verification of the cash book, the assessing officer noticed that the assessee regularly deposited cash in his account arise from his cash sales. During the course of assessment proceedings, the assessee was asked through e-show cause notice to furnish the agreement/documents regarding this deal between the owner of fruits of Jammu & Kashmir and the assessee. The assessee was also asked to furnish the documentary evidences in respect of cash deposit in SBN note during demonetization period and why the cash deposited in SBN is not disallowed as per the notification of Govt. of India, as the assessee is not authorized to accept the SBN note during demonetization. The assessing officer noted that the assessee has not furnished any documentary evidences in support of cash deposited during the demonetization period. The assessee submitted only denomination of notes deposited during the demonetization period in his Punjab national bank & Axis bank accounts in response of the e-show cause notice dated 13.12.2019. Since the assessee did not submit any details regarding business with dealer of Jammu & Kashmir and other dealers i.e. copy of



agreement, purchase bill etc. the assessing officer considered that the above cash is generated from accepting in SBN during demonetization period, which is not allowed as per the notification of Govt. of India regarding SBN for sale of fruits. In view of these circumstances the assessing officer noted that the assessee has no proof/documents to prove the cash deposit of SBN notes during demonetization period though the business of the assessee is based on cash sales, and the assessee deposited regularly cash in his account. The assessing officer further noted that from the beginning of demonetization, the assessee has deposited Rs.5,00,000/-on 10/11/2016 in SBN which the assessing officer considered as his cash on hand before demonetization. The assessing officer further noticed that the assessee has regularly cash deposited in SBN notes during demonetization; due to which it appeared to the assessing officer that the assessee kept selling his fruits in SBN notes during demonetization period, which is not authorized by the notification of Govt. of India during demonetization period. Therefore, in the absence of any documentary evidence, the assessing officer considered that the whole amount i.e. Rs.29,60,000/- (Rs.32,10,000+ Rs. 2,50,000 = Rs.34,60,000 (-) Rs.5,00,000/-) deposited in assessee's bank accounts during the demonetization periods as unexplained money within the meaning of section 69A of the Act.

6. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Id.CIT(A) who has confirmed the action of the assessing officer. The Id.CIT(A) noted that as per the notification, of government, it is clear that SBN may be exchanged at any issue office of RBI and/or any branch of bank rural urban cooperative banks subject to the conditions laid down in the notification, as SBN ceases to be valid tender as per the powers conferred by subsection (2) of section 26 of the Reserve Bank of India Act, 1934 (2 of 1934) (hereinafter referred to as the said Act), with effect



from the 9th November, 2016. In any case, there was a total prohibition of any kind of transaction in specified Bank Notes except the entities earmarked for exchange of such SBNs after 8-11-2016, as the SBNs ceases to be valid tender as per the said notification issued under the Act. It is apparent from this, the assessee was not eligible to accept or made any transaction in the SBNs after 08.11.2016. In view of the above, addition made by the assessing officer for amount of Rs.29,60,000 being Specified Bank Notes deposited during the demonetization period by the assessee, as unexplained money within the meaning of section 69A of the Act, was confirmed by Id.CIT(A).

7. Aggrieved by the order of the Id.CIT(A), the assessee is in further appeal before this Tribunal.

8. Shri Darshit Ranpura, learned Counsel for the assessee argued that the assessee carried out the business of purchase and sale of seasonal fruits and earned commission. It includes purchasing of fruits from out of state (mostly from Jammu and Kashmir) and sales the same in local market in marketing yard and retail fruit vendors. Wholesale fruit vendors of Jammu and Kashmir delivers fruits by transport to Junagadh. Thereafter, the assessee sold fruits at market rate through auction in marketing yard to retail vendors. The assessee's commission is fixed by verbal conversation with vendors of Jammu and Kashmir. The assessee retain commission on sale amount and balance proceed paid to vendors through banking channel. For payment to vendors the assessee deposited cash into bank account with Punjab National Bank. The assessee received cash from purchaser of fruits, while he made payment to vendors through banking channel. In such circumstances, it is but natural that the assessee has to deposited cash into bank account for making payment to vendors. This is a routine practice of the assessee which can be seen from cash



book submitted before the assessing officer. The Learned Counsel further submitted that a part amount was deposited out of past savings also, therefore addition made by the assessing officer may be deleted.

9. On the other hand, Learned Senior DR for the Revenue, argued that assessing officer during the assessment stage, had already given benefit to the assessee, in respect of opening cash balance, and the balance amount of Rs.29,60,000, being Specified Bank Notes deposited during the demonetization period by the assessee, was treated by the assessing officer, as unexplained money within the meaning of section 69A of the Act and the same addition should be upheld, in the hands of the assessee.

10. We heard both sides in detail and also perused the records of the case including the paper book filed by the assessee. We note that the cash deposited in the Axis Bank account during demonetization period were out of previous saving retained at home for emergency use and for future safeguard of family. We find that such transactions are recorded in books of account of the assessee and once it is recorded then no explanation is required to be made by the assessee, as the assessing officer accepted the receipts recorded in the books of account, hence no addition can be made u/s 69A of the Act. So, addition made by the assessing officer is invalid and also amounts to double taxation. The assessee had already offered receipts from sale of fruits in his books of account such receipt is accepted by the Assessing Officer to be the receipt of the assessee, and now, addition of the same receipts to the extent of Rs.29,60,000/-, once again under section 69A of the Act, would tantamount to double taxation. The assessee is an individual engaged in the business of purchase and sale of fruits on commission basis. He purchased fruits and sales it in local market to retail fruit vendors and earned commission. The return of income for the year



under consideration was filed on 22.08.2017, declaring total income at Rs.5,91,030/-. All the details, as required by the assessing officer have been provided by the assessee. The assessing officer alleged at para-5 of the assessment order that the assessee has accepted SBN note during demonetization period. This is not true, as the assessee has not accepted SBN note during this period from any one, in fact, the assessee has cash on hand as on 09.11.2016. This fact was reflected in cash book submitted to the assessing officer vide submission dated 10.12.2019. However, the assessing officer without considering this fact made an addition of Rs.29,60,000/-.

11. We note that the assessing officer has not considered assessee's submission dated 10.12.2019, particularly cash book filed along with his submission. From the cash book, as submitted above, it can be seen that the assessee had cash on hand of Rs.33,95,214/-, immediately before demonetization. We note that cash balance on a particular day is to be taken from cash book only and not on assumption and presumption. In the case of the assessee, the assessing officer has presumed cash on hand immediately before demonetization at Rs.5,00,000/- which is not correct and also legally not tenable, particularly when he has accepted genuineness of books of account of the assessee. So, cash on hand, as on date of demonetization must be taken from cash book only and not on assessing officer's wisdom. We note that the Hon'ble Patna High Court in the case of Lakshmi Rice Mills Vs. CIT (1974) 97 ITR 0258 while deciding the identical and similar issue, the Hon'ble court held as under:

"While accepting the position that the assessee had on the 12th Jan, 1946, a cash balance duly entered in its books of account a sum of Rs. 1,70,000 odd and accepting the genuineness of the books of account of the assessee, the matter was decided, more or less, on the applicability of the doctrine of onus. The underlying current behind the order of the Tribunal as well as those of the subordinate assessing or appellate authorities seems to be that the assessee must in such cases prove the source of receipt of the high denomination notes. This, is not the correct position in law. It is a



fundamental principle governing the taxation of any undisclosed income or secreted profits that the income or the profits as such must find sufficient explanation at the hands of the assessee. If the balance at hand on the relevant date is sufficient to cover the value of the high denomination notes subsequently demonetised and even more, in the absence of any finding that the books of account of the assessee were not genuine, the source of income is well disclosed and it cannot amount to any secreted profits within the meaning of the law....”

12. Our view is fortified by the judgement of the Hon'ble Supreme Court in the case of Lalchand Bhagat Ambica Ram Vs. CIT (1959) 37 ITR 0288, where it was held that if the entries in the books of account in regard to the balance in Rokar and the balance in Almirah were held to be genuine, logically enough there was no escape from the conclusion that the assessee had offered reasonable explanation as to the source of the 291 high denomination notes of Rs.1,000 each which it encashed on 19th Jan., 1946. The assessee's business was not one in which large amount of petty notes might have been necessary for the purpose of business, and keeping money in large notes is evidently more convenient for counting, for making payments and for other purposes and no material has been placed to show that the explanation offered by the assessee was one which was inherently improbable or one which could not be accepted. The argument of assessee is well founded and the assessee has furnished a reasonable explanation for his possession of the high denomination notes. In the assessee's case under consideration, admittedly, the assessing officer had confirmed that the amount deposited in the bank were found duly recorded in the cash book. The ld. Sr-DR for the revenue has not disputed the correctness of the cash book. Further, it was also not the case of the assessing officer that the cash book maintained by the assessee was incorrect. In view of the above, once the assessee was able to explain the source of deposits in the bank based on the cash book, which were admittedly not disputed and rejected by the assessing officer, therefore, no addition on the basis of the bank deposit can be made. However, we find some weakness in the other documents and explanations



submitted by the assessee. We note that during the assessment proceedings, the assessee did not produce the copy of agreements with vendors of Jammu and Kashmir. The assessee also did not submit before the assessing officer purchase bills. Therefore, it is clear that the assessee is having a non-compliant and blatant attitude towards the revenue, and copy of agreements and purchase bills were not submitted by the assessee, before the assessing officer. Therefore, while the case of the assessee merits some relief, at the same time entire relief cannot be permitted to the assessee. Considering these facts, in our view the ends of justice would be met, if the addition of 10% of Rs. 29,60,000/- is made in the hand of assessee, which comes to Rs.2,96,000/-.

13. Before parting, we make it clear that assessee had deposited the money in the bank account, during demonetisation period, out of his business activities, therefore, it should not be taxable u/s 115BBE of the Act, therefore, we direct the assessing officer to tax of Rs.2,96,000/-, by applying the normal rate of income tax.

14. In the result, appeal filed by the assessee is partly allowed in above terms.

Order is pronounced in the open court on 15/12/2025

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

**Sd/-
(DR. ARJUN LAL SAINI)
ACCOUNTANT MEMBER**

राजकोट /Rajkot

दिनांक/ Date: 15/12/2025

**Dkp Outsourcing Sr.P.S*



आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Assessee
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)/(NFAC), Delhi.
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्ड फाईल/ Guard File

By order/आदेश से,

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Assistant Registrar/Sr. PS/PS

ITAT, Rajkot