

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AMRITSAR

PHYSICAL HEARING

HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. / ITA No.306/ASR/2023
(निर्धारण वर्ष / Assessment Year: 2012-13)

Smt. Navjot Kaur W/o Shri Balwinder Singh M/s J7 Restaurant, Hamira Subhanpur, Kapurthala – 144802	बनाम/ Vs.	ITO Ward-2 Kapurthala
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. CIMPK-3297-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri K.R. Jain (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Charan Dass (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	17-12-2025
घोषणाकीतारीख / Date of Pronouncement	:	17-12-2025

आदेश / ORDER

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 25-08-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] on *best judgment basis* u/s 144 r.w.s. 147 of the Act on 09-12-2019. The sole grievance of the assessee is confirmation of addition of Rs.23.79 Lacs u/s 69 / 69A. The Ld. AR advanced arguments with supporting case laws. The Ld. Sr. DR also advanced arguments and filed written submissions. Having heard rival

submissions and upon perusal of case record, the appeal is disposed-off as under.

2. The assessee was found deposited cash of Rs.23.79 Lacs in its savings bank as maintained with IDBI Bank. The assessee filed return of income on 28-03-2014 declaring income of Rs.1.77 Lacs which was not commensurate with the impugned deposits. The assessee failed to make any representation during assessment proceedings and accordingly, Ld. AO added the deposits of Rs.23.79 Lacs as unexplained investment / money to the returned income of Rs.1.77 Lacs and framed the assessment.

3. During first appeal, the assessee, in statement of facts, stated that the assessee was running sweet shop cum restaurant and business receipts were deposited in the bank account. However, the assessee again failed to substantiate its case before first appellate authority and accordingly, the assessment was confirmed against which the assessee is in further appeal before Tribunal.

4. The Ld. AR raised legal ground that the Ld. AO failed to specify exact provisions which were applicable to the case of the assessee. It has further been stated that invocation of these provisions was discretionary. However, these arguments are to be rejected at its threshold since the assessee has failed to attend any of the proceedings before lower authorities. Under these circumstances, Ld. AO had no option but to frame the assessment on *best judgment* basis. The same has rightly been done by Ld. AO.

5. On merits, it has been reiterated that the deposits were out of business receipts of sweet shop cum restaurant. The Ld. AR stated that the assessee filed return of income on presumptive basis @8% u/s 44AD and declared business income of Rs.1,65,500/- u/s 44AD. The deposits were out of business receipts and therefore, the same could not be considered to be unexplained money of the assessee. Reference has been made to the decision of Hon'ble Punjab & Haryana High court in the case of **CIT vs. Surinder Pal Anand (ITA No.156 of 2010 dated 29-06-2010)** holding that once under the special provisions, exemption from maintaining the books has been provided and presumptive tax @8% of gross receipts is the basis for determining taxable income, there was no obligation to explain individual entry of cash deposit unless such entry had no nexus with the gross receipts.

6. The perusal of assessee's bank statement would show that this account has been opened by the assessee on 08-12-2011 and the assessee apparently do not hold any other bank account. The cash has been deposited in the said bank account and the assessee has purchased three FDRs of Rs.4 Lacs each on 12-01-2012. Therefore, the whole of the receipts could not be considered to be the business receipts for the assessee. The declared income of Rs.1,65,500/- translates into gross receipts of Rs.20.68 Lacs. Considering the totality of facts and circumstances of the case, we would confirm lump sum addition of Rs.3 Lacs in the hands of the assessee and delete the remaining addition. The Ld. AO is directed to recompute the income of the assessee. No other ground has been urged in the appeal.

7. The appeal stands partly allowed.

Order pronounced on 17th December, 2025.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 17-12-2025

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR