

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (SMC) BENCH, AGRA**

BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No.436/Agr/2025
Assessment Year: 2017-18**

Bhoj Raj, A to Z Footwear, Shoe Market, Hing Ki Mandi, Agra.	Vs.	Income-tax Officer, Ward 1(1)(1), Agra.
PAN :AAXPR3415P		
(Appellant)		(Respondent)

Assessee by	Sh. Subhash Chand Agarwal, Advocate
Department by	Shri Shailendra Srivastava, Sr. DR

Date of hearing	16.12.2025
Date of pronouncement	18.12.2025

ORDER

The assessee has filed this appeal against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 29.07.2025 for the Assessment Year 2017-18.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2017-18 on 13.09.2017, declaring total income at Rs.1,45,310/-. The case of the assessee was reopened on the basis of the information that the assessee had deposited cash amounting to Rs.16,24,000/- in a bank account maintained with Jammu & Kashmir Bank during demonetization period between 09.11.2016 to 30.12.2016. The Assessing Officer observed that the assessee has not declared the above said cash deposit in his return of income and not filled the appropriate

columns meant for the very purpose. Since the assessee has not disclosed fully and truly all material facts necessary for assessment, the assessment was completed u/s. 147 read with section 143(3) of the Income-tax Act, 1961 ("the Act" for short) on 28.09.2021 at a total income of Rs.88,59,618/-. Aggrieved with the above order, assessee preferred an appeal before Hon'ble High Court of Allahabad. Hon'ble High Court has set aside the assessment order back to the Assessing Officer to pass a fresh order within six months after giving an opportunity to the assessee. A notice was issued to the assessee u/s. 142(1) of the Act to furnish relevant details. In response, the assessee has submitted written submissions along with copy of bank statement and cash book for the impugned year under consideration. In the reply before the Assessing Officer, assessee has submitted that the assessee has re-deposited the cash, which was withdrawn from the bank to the extent of Rs.17,70,000/-. In support of the same, assessee also filed cash book for the relevant year. The Assessing Officer rejected the same and observed that the assessee has not kept cash in hand for more than a day or two during the year. The cash withdrawals were made from the bank for the purpose of making payment to Karigars and the same was paid on the same day. The Assessing Officer analyzed the past cash withdrawals and cash expenditure in the previous months and came to the conclusion that the assessee never kept so much of cash at any point of time. Only

during the demonetization period, the assessee had deposited the cash which was not out of regular business receipts and the source of cash deposit cannot be said to be business deposits, which remained unexplained. Based on the above observations, the Assessing Officer has proceeded to make addition of Rs.16,24,000/- as undisclosed money u/s. 69A of the Act.

3. Aggrieved with the above order, assessee preferred an appeal before NFAC, Delhi and filed a detailed submission, which are more or less similar to the submissions made before the Assessing Officer. After considering the detailed submissions filed by the assessee, learned CIT(Appeals) sustained the additions made by the Assessing Officer and accordingly, dismissed assessee's appeal.

4. Aggrieved, the assessee is in appeal before ITAT, raising following grounds of appeal :

“1. Because the learned CIT (A) has dismissed the appeal arbitrarily, simply repeating the observations given in assessment order. Asstt order was passed in haste at feg end of limitation period, showing non-application of mind by AO, which is evident from the fact that order was issued within 2 hrs of uploading explanation reply.

2. Because issue of improper notice u/s 148 and permission u/s 151 and ground thereof, has not been considered judiciously. The permission u/s 151 and proceedings u/s 147/148 are not according to law.

3. Because addition of cash deposited in bank Rs. 16,24,000/- during demonetization period can not be made solely on the basis of

circumstances and business behavior. Available of cash is evident from bank statement and cash book, which was withdrawn from bank itself. Addition has been made simply on presumption basis without mentioning or putting evidence on record that available cash was used somewhere else or any unaccounted cash was introduced.

4. Because behavior pattern can not be made basis to discard the accounts, without any concrete adverse material on record. The authorities below have acted arbitrarily and relied solely on presumption.

5. Because learned CIT (A) failed to discuss and distinguish judicial pronouncements but before him. on same facts and circumstances.

6. Because addition is based entirely on surmises and conjectures. The money was withdrawn from bank, was available with the appellant and was deposited in bank, Hence only suspicion raised about availability of cash withdrawn and deposited in bank on single presumption, "it might have been spent for business purposes but not shown in books of account", is not maintainable. The learned CIT (A) has arbitrarily dismissed the appeal, without considering our submissions, documents and case laws judiciously.

7. Because provisions of sec 69A, 115BBE are not attracted. The provisions of section 271AAC are also not attracted. Addition of Rs. 16,24,000/- made u/s 69A/115BBE is liable to be deleted. Infact, the order under appeal is liable to be quashed.

8. Because the orders of the authorities below are bad in law and are against the facts and evidences on record.”

5. At the time of hearing, learned AR of the assessee made detailed submissions on approval obtained by the Assessing Officer u/s. 151 of the Act and subsequently preferred not to press the same.

6. On merits, learned AR of the assessee brought to my notice page 6 of the paper book, which is the summary of cash withdrawals by the assessee during the year from 21.10.2016 to 27.12.2016 to the extent of Rs.17,70,000/- of cash withdrawals from the bank. With regard to the cash

deposits, he submitted that the assessee has deposited cash on 13.11.2016, 15.11.2016 and 01.12.2016 to the extent of Rs.16,24,000/-. He submitted that the assessee has withdrawn for the purpose, for which it was not utilized and accordingly he has deposited the same during demonetization period. He submitted that the assessee has submitted complete cash book for the whole year before the tax authorities to demonstrate that the assessee has withdrawn cash and the cash was kept in hand unutilized during October and November, which was subsequently re-deposited due to declaration of demonetization. In this regard, he also brought to notice para 5.2 of the assessment order and objected to the observations of the Assessing Officer that the assessee has met the regular expenditure from the cash in hand. Excess cash as per the cash book was re-deposited. He further brought to our notice page 13 of the paper book, which is a decision of ITAT Mumbai Bench in the case of Ajit Bapu Satam (ITA No. 1599/Mum/2021) dated 29.08.2022. The facts are exactly similar to the facts in the present case. He also relied on other cases filed in the paper book. Further, he submitted that the cash deposited by the assessee are part of the cash book, which was already declared in the books of account. Therefore, the addition cannot be made u/s. 69A of the Act. In this regard, he also relied on the decisions filed in the paper book.

7. On the other hand, learned DR relied on the findings of the lower authorities.
8. Considered the rival submissions and the material available on record.
9. I observe that the assessee has maintained cash book and disclosed the source of cash deposited by the assessee, which is nothing but the cash withdrawn by the assessee during the year. After considering the submissions of both the parties, I observe that the facts in the present case are exactly similar to the facts in Ajit Bapu Satam (supra). Findings of the ITAT Mumbai Bench are as under :

“8. We have considered the rival submissions and perused the material available on record. In the present case, the Revenue has treated the cash deposited by the assessee during the demonetisation period in its bank account as an unexplained money and added the same to the total income of the assessee under section 69A of the Act. It is the plea of the assessee that the cash which was withdrawn by the assessee from the bank was deposited in the very same bank account. Before the learned CIT(A), assessee provided the following details of cash withdrawal from the HDFC bank account;

Date of cash withdrawal	Amount(Rs.)	Name of Branch
28.07.2016	2,50,000/-	Matunga (West)
30.08.2016	10,00,000/-	Matunga (West)
12.09.2016	3,00,000/-	Matunga (West)
23.09.2016	1,50,000/-	Matunga (West)
24.10.2016	1,50,000/-	Matunga (West)
28.10.2016	1,50,000/-	Matunga (West)
Total	20,00,000/-	

9. From the perusal of the statement of bank account maintained with HDFC Bank, Martunga (West) branch, Mumbai, forming part of the paper book, the above details are fully substantiated. We also find that apart from the aforesaid cash withdrawals, the assessee also withdrew amount of Rs. 2,25,000 on 04/08/2016 as well as amount of Rs. 28,500 on 29/09/2016.

Further, it is also evident that all the above cash withdrawals have been made through cheque by the assessee. Thus, as on the date of declaration of demonetisation i.e. 08/11/2016, the assessee has withdrawn an amount of Rs. 22,53,500 from the HDFC Bank, Martunga (West) branch. As per the assessee, the cash which was withdrawn was kept at his residents and due to demonetisation, the assessee deposited the old bank notes into Martunga (West) branch amounting to Rs. 20 lakh on 10/11/2016. From the above, it is evident that the amount withdrawn by the assessee was much more than the amount deposited in the very same bank account due to demonetisation. Further, in the present case, the Revenue has not brought anything on record to show that the cash which was withdrawn by the assessee was already utilised for any other purpose. Surprisingly, the learned CIT(A) has also doubted the reason for re-depositing the cash, even during the demonetisation period. The Revenue merely presumed that the cash withdrawn by the assessee from 28/07/2016 till 28/10/2016 was utilised by the assessee, without bringing anything on record. Further, in this regard, it is relevant to note following observations of the coordinate bench of Tribunal in Jaspal Singh Sehgal vs ITO, [2017] 83 Taxmann.com 246 (Mumbai-Trib.):

“3.2

(i)

(ii) Cash withdrawn from Axis Bank of Rs.9,73,000/- and from PMC Bank of Rs.2,33,100/-: The lower authorities refused to give benefit of cash withdrawn from the bank on the ground that the assessee could not establish that the cash withdrawn has not been used anywhere else. In our opinion approach of the lower authorities is not fair and justified. The assessee has submitted detailed cash summary showing inflow and outflow of the cash for the entire year. In our opinion the assessee cannot be directed to prove the negative. It is a burden upon the AO to prove that cash has been utilized elsewhere by the assessee before he rejects the claim of the assessee. Unless any such contrary material is brought on record by him to prove that cash has been utilized elsewhere by the assessee, he should give benefit of cash withdrawn by the assessee from the bank account against the amount of cash deposit into the bank account of the assessee, especially when the cash has been withdrawn and deposited in the same financial year, even if the bank from where cash was withdrawn and bank where the cash was deposited are different. Thus, after considering entire facts and circumstances of the case, we direct the AO to give set off of entire amount of cash withdrawn from the Axis Bank and PMC Bank.”

10. Further, in another decision, in Sudhirbhai Pravinkant Thaker vs ITO, [2017] 88 Taxmann.com 382 (Ahemdabad-Trib.), the coordinate bench of the Tribunal held that when the assessee has demonstrated that he had withdrawn cash from the bank and there is no findings by the authorities below that this cash available with the assessee was invested or utilised for

any other purpose, in that even, it is not open to the authority to make the addition on the basis that the assessee has failed to explain the source of deposits. As regards the decision of Hon^{ble} Punjab and Haryana High Court in Smt. Kavita Chandra vs CIT: [2017] 81 Taxmann.com 317 (Punjab & Haryana) relied upon by the learned DR is concerned, we find that the same is factually distinguishable. As in that case, the amount of cash deposit was much more than the withdrawal by the taxpayer from its bank account.

11. Thus, in view of the above, we find no reason to sustain the addition made by the lower authorities, particularly when both cash withdrawal and deposit are duly substantiated from the bank statement of the very same branch. Accordingly, we direct the AO to delete the addition of Rs. 22 lakh made under section 69A of the Act. As a result, ground No. 1 raised in assessee's appeal is allowed."

10. Respectfully following the above decision, we are inclined to delete the additions made by the Assessing Officer for the reason that the assessee has already brought on record source of cash deposits. Further, the addition cannot be made u/s. 69A of the Act, which is against the said provisions. For the cash, which is already disclosed in the books of account, since I have already decided the issue on merits, I prefer not to adjudicate on this technical issue.

11. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 18.12.2025

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated:

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR