

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.1968/Del/2025  
Assessment Year: 2017-18

Income Tax Officer, New Delhi	<b>Vs.</b>	Delhi Foodstech Pvt. Ltd., Shop No. 308, Shivlok House-1, Karampura, New Delhi
		<b>PAN: AAFCD2062D</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	None
Department by	Shri Rajesh Tiwari, Sr. DR

Date of hearing	15.12.2025
Date of pronouncement	15.12.2025

**ORDER**

**PER SATBEER SINGH GODARA, JM**

This Revenue's appeal for assessment year 2017-18, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1072739640(1), dated 30.01.2025 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Case called twice. None appears at the assessee's/respondent's behest. It is accordingly decided *ex-parte*.

2. Coming to the Revenue's sole substantive grievance seeking to revive section 68 unexplained cash credits addition of Rs. 6,83,00,000/- representing assessee's cash deposits during demonetization made in assessment order dated 30<sup>th</sup> December, 2019, we note that the learned CIT(A)/NFAC's lower appellate discussion under challenge reversing the same; reads as under:

*“5.3 I have perused the assessment order, grounds of appeal and written submission filed by the appellant, remand report submitted by the AO & comments of the appellant carefully. I find from the assessment order that the details called for by the AO were submitted in the month of December, 2019 and very little time was remained with the AO to verify the same. Therefore, the submission was sent to the AO for making inquiry u/s 250(4), if required and to submit the comments. Thus, I find that this is not a case of additional evidence, but the submission of the appellant filed before CIT(A) during appellate proceedings was referred to the AO for verifying the claim made by the appellant. However, I find from the remand report that the AO has not made any inquiry with reference to the claim made by the appellant and reiterated the stand taken by the AO during assessment proceedings. In view of the above facts, the grounds of appeal raised by the appellant are adjudicated in the subsequent paras.*

*6. Ground No.1 to 3, the appellant has contested the addition of Rs.6,83,00,000/- made by the AO u/s 68 of the IT Act.*

*6.1 The submission uploaded by the appellant has been re-produced in para 5 above.*

*6.2 I have perused the assessment order, grounds of appeal and written submission filed by the appellant, remand report submitted by the AO & comments of the appellant carefully. I find from the assessment order that during assessment proceedings, the AO noted that the appellant is engaged in supply of milk on whole sale basis. It*

*was noticed that the appellant deposited cash of Rs.6,83,00,000/- in bank account during demonetization period. The source of cash deposit was explained to be out of sales proceeds from more than 400 parties and had provided names and address. The AO had carried out inquiry u/s 133(6) in 7 cases, but 6 persons had not responded and 7th party responded but denied to have done any such transaction with the appellant. Thus, the explanation given by the appellant was not found to be genuine, hence the AO made addition of Rs.6,83,00,000/- and completed the assessment.*

*During the course of appellate proceedings, the appellant submitted that During the year cash sale/cash received from debtors of Rs. 1072.47 Lakhs against which assessee has deposited cash of Rs. 772.50 Lakhs in the bank account, out of which Rs. 683.00 Lakhs deposited during the demonetization was disallowed by the Learned AO. Notably, the cash deposited during demonetization was sourced from the same parties from whom cash was received and deposited both before and after demonetization. The Learned AO has fully accepted cash received during demonetization and post demonetization from same parties and refused to accept cash from same parties with respect to accumulated (SBN) pre demonetization period and deposited during the period 09.11.2016 to 30.12.2016 merely on pretext that same was deposited during demonetization period and hence was suspicious in nature, without any reason or rhymes.*

*I find from the assessment order that the details called for by the AO were submitted in the month of Dec., 2019 and very little time was remained with the AO to verify the same. Therefore, the submission was sent to the AO for making inquiry u/s 250(4), if required and to submit the comments. Thus, I find that this is not a case of additional evidence, but the submission of the appellant filed before CIT(A) during appellate proceedings was referred to the AO for verifying the claim made by the appellant. However, I find from the remand report that the AO has not made any inquiry with reference to the claim made by the appellant and reiterated the stand taken by the AO during assessment proceedings. Since the AO has failed to do any further inquiry to examine the contentions raised by the appellant, I proceed to decide the grounds of appellant considering the submission filed by the appellant.*

*I find that the appellant is engaged in trading of milk on wholesale basis. The details turnover of the appellant for the current year and previous years are as under:-*

<i>Asstt. Year</i>	<i>Turnover</i>	<i>Gross profit</i>	<i>Net Profit</i>	<i>GP Rate</i>
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2017-18	2,49,79,73,60142,10,332	6,43,511	0.17
2016-17	1,65,54,46,06198,78,702	5,24,749	0.60

*I further find that the sales upto 08/11/2016 were at Rs. 1,54,14,13,233/-and sale consideration received by cheque till 08/11/2016 was Rs. 1,46,27,77,243/- and the consideration received in cash was Rs. 7,86,35,990/-. The appellant has contended that the cash deposits during demonetization period were made out the cash balance in the books of accounts as on 08/11/2016. Further the appellant has contended that the payment against purchases is made through banking channel but sales to small vendors is made by cash. I also find that the AO had issued notice u/s 133(6) to only 7 parties out of 400 parties to whom sales were made in cash. In response one party had denied to have done the transaction and there was no response by the remaining 6 parties. However, the details submitted by the appellant were not examined by the AO on the ground that the same were furnished at the fag end hence the summons u/s 131 was issued to the director but there was no response. On the contrary the appellant submitted that it had not received the summons and also contended that very short time was given to explain the matter. The AO was given opportunity to examine the matter during remand proceedings, but the AO did not make any further inquiry to verify the genuineness of the contention raised by the appellant and only relied upon the finding given by the AO during assessment proceedings. Thus, I find that the AO has not controverted the contention of the appellant by making the suitable verification or inquiry during remand proceedings. I find that the AO has not doubted the purchases made by the appellant during assessment proceedings or even during remand proceedings. I further find that the AO had not rejected the book results shown by the appellant during assessment proceedings by invoking provisions of section 145(3) of the Act. In the remand report also, the AO has not given any adverse comments about the book results. The AO had not doubted the sales made by the appellant except saying that claim of sale of more milk in festival season cannot be tenable/ acceptable if compared with figures of last festival season. In view of the above discussion I find that the books of accounts are audited and the book results shown by the appellant have not rejected by the AO by invoking provisions of section 145(3) but the cash available as on 08/11/2016 is not treated as genuine without proving that the sales are not genuine. Therefore, I find that the addition made by the AO u/s 68 is not justified. Hence, the addition of Rs.6,83,00,000/- made by the AO is hereby deleted and the grounds of appeal raised by the appellant are allowed.”*

This is what leaves the Revenue aggrieved.

3. Learned senior departmental representative vehemently argues during the course of hearing that the Assessing Officer had rightly added the assessee's cash deposits during demonetization as unexplained cash credits which deserves to be restored in entirety.

4. We find no reason to accept either the assessee's case or the Revenue's argument supporting the CIT(A)'s or assessment findings; as the case may be in entirety. We make it clear that there is no dispute in principle about the assessee carrying out regular business activity in milk supply on wholesale basis wherein such cash deposits could not be altogether ruled out being an unorganized sector. It further appears to have *prima facie* proved its case by filing the corresponding additional evidence in the lower appellate proceedings. Be that as it may, we are of the considered view in this factual backdrop that a *lumpsum* addition of Rs.2 lakhs in the assessee's hands would be just and proper to cover all of its shortfall in proving the relevant facts before the learned assessing authority. We order accordingly subject to a rider that our above estimation shall not be treated as a precedent. Necessary computation shall follow as per law.

5. So far as assessee's assessment under section 115BBE is concerned, we quote S.M.I.L.E. Microfinance Ltd. Vs. ACIT, W.P. (MD) No.2078 of 2020 & 1742 of 2020, dated 19.11.2024 (Madras) that the impugned statutory provision would come into effect on the transaction done on or after 01.04.2017 only. The assessee is accordingly directed to be assessed under the normal provision as per law.

6. This Revenue's appeal is partly allowed.

***Order pronounced in the open court on 15<sup>th</sup> December, 2025***

***Sd/-***  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 22<sup>nd</sup> December, 2025.

*RK/-*

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi