

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
MS MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 855//Del/2025
(Assessment Year: 2017-18)

ACIT, Circle-34(1), Delhi	Vs.	Pankaj Kalra, A-28, Phase-1, Ashok Vihar, Delhi
(Appellant)		(Respondent)
		PAN: AMQPK6707N

Assessee by :	Shri Gaurav Jain, Adv Shri Tarun Chanana, Adv
Revenue by:	Shri Om Prakash, Sr. DR
Date of Hearing	12/11/2025
Date of pronouncement	31/12/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.855/Del/2025 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 16.12.2024 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 30.12.2019 by the Assessing Officer, ACIT, Circle-34(1), New Delhi (hereinafter referred to as 'Id. AO').
2. The first issue to be decided in this appeal is as to whether the Learned CITA was justified in deleting the disallowance under section 40A(2)(b) of the Act in the sum of Rs 6,94,83,088/- in the facts and circumstances of the case.

2.1. We have heard the rival submissions and perused the materials available on record. The Assessee had filed his return of income for the assessment year 2017-18 on 8-10-2017 declaring total income of Rs. 85,92,730/-. The Assessee had made purchases from its group concern M/s Salvation Group (Firm) amounting to Rs. 6,94,83,088/- which fact is also reflected in Form No. 3CD as purchase made from related concern. The Assessee was asked to provide the details and reasonability and genuineness of the said transaction. The Assessee filed a reply on 24-12-2019 stating that the Salvation Group had a distributionship of North Delhi of mobile instruments named Micromax. During the year, Salvation Group had surrendered the distributionship as such and stopped dealing in this brand. However, as per the company's norms, whatever the stock that was lying at the time of surrender was to be transferred or given to the new distributor M/s Bhai Distribution at the rate at which the company sold the same to the Salvation Group. Since the purchase of the Assessee is at the supply rates of the parent company as such it did not contravene the provisions of Section 40A(2)(b) of the Act and no excessive or unreasonable payment was made by the Assessee to Salvation Group. The Assessee produced the ledger account of Salvation Group in support of his contentions.

2.2. The Learned AO observed that no bills / vouchers, details of payments, stock register lying with Salvation Group, agreement with Micromax, purchase of Salvation Group were furnished by the Assessee. Accordingly, the Learned AO concluded that the reasonableness and genuineness of the transaction stood not established by the Assessee. Accordingly, by applying the provisions of Section 40A(2)(b) of the Act, the Learned AO proceeded to disallow the entire purchases made by

the Assessee from Salvation Group in the sum of Rs. 6,94,83,088/- in the assessment as excessive or unreasonable.

2.3. The Assessee submitted that Salvation Group was a partnership firm consisting of himself and Shri Adesh Kalra. He further stated that Shri Adesh Kalra was not interested in the business of distribution of mobile phones as they were discouraged due to the penetration of online sales of mobile phones, but he was interested in the same business. Then, Salvation Group had decided to surrender the distributorship of Micromax Informatics Ltd. and obtained a dealership in his proprietorship concern M/s Bhai Distribution to carry on the same business. The Assessee has also claimed that he was still in the same business with other reputed companies and doing very well in his business. In support of this claim, the Assessee furnished the following documents:-

- a) Email communication of surrendering the dealership and a fresh agreement between M/s Bhai Distribution and Micromax Informatics Ltd.
- b) Ledger of Salvation Group in the books of M/s Bhai Distribution showing the payment details.
- c) Consolidated summary of stock lying with Salvation Group for the period 1-4-2016 to 31-3-2017.
- d) Bank statement showing payment to Salvation Group, duly highlighting the relevant transactions.
- e) Dealership between Micromax and M/s Bhai Distribution.
- f) Purchase register of Salvation Group.
- g) Ledger of Micromax Informatics Ltd. in the books of Salvation Group.
- h) Email communication of minutes of the meeting between Micromax and Shri Pankaj Kalra, i.e. Assessee.

2.4. The Learned CITA reproduced all the evidences submitted by the Assessee in the appellate order and sought for a remand report from the Learned AO. The Learned CITA on perusal of the aforesaid details and documents furnished by the Assessee and on consideration of the remand report of the Learned AO, observed that Assessee had duly discharged his onus by proving the genuineness and reasonableness of the transaction. Further he observed that there was absolutely no excessive payment made by the Assessee to the related party. The Learned CITA noted that in the remand report, no adverse comments were made by the Learned AO in this regard. Accordingly, by duly appreciating the documentary evidences placed on record by the Assessee and by placing reliance on certain decisions of Tribunal and Hon'ble Delhi High Court, the Learned CITA deleted the disallowance made under Section 40A(2)(b) of the Act.

2.5. At the outset, we find that sufficient documentary evidences were indeed filed by the Assessee before the Learned CITA, which were duly remanded to the Learned AO for seeking his remand report. No adverse inferences were drawn on those documentary evidences by the Learned AO in his remand report. Further, we find that the Learned AO had not brought any comparable instances to justify the fact that the payment made by the Assessee to Salvation Group on account of purchases was excessive or unreasonable. Merely because the payment was made by the Assessee to a related concern on account of purchases, the said transaction cannot be considered as excessive or unreasonable unless the Learned AO is able to bring on record with comparable instances that the payments made thereon were excessive or unreasonable. This was admittedly not done by the Learned AO in the instant case. Hence the

applicability of provisions of Section 40A(2)(b) of the Act per se is incorrect in the facts of the case. Further, we also find that the Assessee had purchased from Salvation Group at the same price at which the goods were purchased by Salvation Group. The goods were supplied to Salvation Group originally at a discount. Hence, the Assessee had also effectively purchased the goods from Salvation Group at a discounted price. Hence, there cannot be any allegation of making any excessive payment thereon. Hence, we do not find any infirmity in the order of the Learned CITA deleting the disallowance in this regard. Accordingly, the Ground No. 1 raised by the revenue is dismissed.

3. The second issue to be decided in this appeal is as to whether the learned CITA was justified in deleting the addition of Rs 52,49,530/- on account of cash deposits made in the bank account in the facts and circumstances of the instant case .

3.1. We have heard the rival submissions and perused the materials available on record. The Learned AO noted that Assessee had deposited cash amounting to Rs 18,44,780/- and Rs 34,04,750/- in Catholic Syrian Bank during the period of demonetization. The learned AO concluded that Assessee had not proved the source of such cash deposits and accordingly proceeded to add the said sum of Rs 52,49,530/- as unexplained cash deposits under section 69A of the Act in the assessment. The Assessee before the Learned CITA submitted that he had received a sum of Rs. 46,68,950/- on account of cash sales and realization from debtors in cash during the demonetization period. Further the Assessee claimed that he had received gifts on birthday and other occasions from childhood till the date of demonetization amounting to Rs 5,80,580/- in cash and the said cash was deposited during the period of demonetization in his bank account. The total credit sales made

by the Assessee was Rs 4,00,55,067/- during the period 4-8-2016 to 8-11-2016 and out of which, the Assessee had received Rs 55,75,524/- in cash from debtors, but the learned AO did not consider this cash realization. The Assessee had also given the detailed chart showing actual cash in hand as on 8-11-2016 and cash balance from August 2016 to 8-11-2016. The Assessee further furnished the copy of other bank statements other than the bank account in which cash was deposited to justify that there was no cash deposited in other bank accounts during the period of demonetization. The Learned CITA duly examined the cash book and the debtors account and found that Assessee had indeed realized a sum of Rs. 46,68,950/- on account of cash sales as well as receipts from debtors. Since, the Assessee is engaged in the business of distribution of mobile phones, where the business could be carried out only in cash predominantly. Hence to the extent of the cash realization from sales in the sum of Rs. 46,68,950/-, the Learned CITA observed that Assessee had indeed proved the source of cash deposits and the said sum should be treated as explained. However with regard to the remaining sum of Rs 5,80,580/-, the Learned CITA granted partial relief to the Assessee's claim that the said sum was received as cash gifts right from childhood until the date of demonetization considering the reasonableness and sustained the remaining 50% addition of Rs 2,90,290/-. It is pertinent to note that against the addition sustained by the Learned CITA, the Assessee is not an appeal before us.

3.2. At the outset, we find that the cash sales shown by the Assessee is not disputed by the revenue. Similarly the credit sales shown by the Assessee is not disputed by the revenue. These sales are already credited in the profit and loss account and profits earned thereon had been duly

reflected in the books of accounts and in the income tax return. It is a fact that a sum of Rs 46,68,950/- has been recovered in cash from the debtors of the Assessee for which the sales had already been reflected by the Assessee and which is not disputed by the revenue. The cash book has been duly produced before the Learned CITA and also before the Learned AO in the remand proceedings. Hence, we do not find any infirmity in the order of the Learned CITA granting relief to the extent of Rs 46,68,950/- considering the cash realization from debtors as explained source. With regard to the remaining sum of Rs 5,80,580/-, even though the Assessee could not fully establish with evidence the fact of gifts received from the childhood till the date of demonetization that he was in receipt of cash gifts on various auspicious occasions, the Learned CITA considering the status of the Assessee and on the ground of reasonableness had granted 50% relief there on. The relief granted to the Assessee works out to Rs 2,90,290/- which, in our considered opinion, is very reasonable and meets the ends of justice. The remaining 50% had been rightly sustained by the Learned CITA as unexplained source. Hence, we do not find any infirmity in the order of the Learned CITA in this regard. Accordingly, the Ground No. 2 raised by the revenue is dismissed.

4. The last issue to be decided in this appeal is as to whether the Learned CITA was justified in deleting the addition of Rs 8,41,666/- towards granting deduction for cost of improvement in the facts and circumstances of the instant case.

4.1. We have heard the rival submissions and perused the materials available on record. During the assessment proceedings, it was found that Assessee had sold immovable property situated at Property No. 11, Block H, Ashok Vihar, Phase 1, Delhi -110052 for Rs 53,25,000/-. The said

property was purchased by the Assessee on 4-3-2014 for Rs 47,01,208/-. The Assessee claimed deduction on account of cost of acquisition and also cost of improvement of Rs 8,41,666/- in the return of income and disclosed capital loss of Rs 2,17,875/-. The Learned AO in the assessment proceedings sought for the source of incurrence of cost of improvement of Rs 8,41,666/- from the Assessee together with the genuineness thereon. The Assessee stated that he had obtained unsecured loans from the family members for meeting the cost of improvement of Rs 8.41 lakhs and also filed furnished confirmation from the family members before the Learned AO. The Assessee also furnished the copy of bank statements duly highlighting the payments made on account of cost of improvement along with the bills of purchases towards cost of improvement before the Learned AO. The Learned AO on perusal of the said bills and vouchers observed that the bills are related to bricks / dust / rodi etc. and the bills were related with single party Shri Rajiv Gupta; no delivery address was mentioned in the bill and no transportation detail was mentioned in the bill. There is only one name of party in whose name the bills were issued. Accordingly, the Learned AO disbelieved the proofs submitted by the Assessee on account of cost of improvement and denied deduction on account of the same and re-computed the capital gains at Rs. 6,23,792/- as against the capital loss of Rs. 2,17,875/- disclosed by the Assessee.

4.2. The Assessee before the Learned CITA submitted that the property which was sold during the year was in the joint names of him and Shri Adesh Kalra.

In support of the incurrence of cost of improvement on the subject mentioned property, the Assessee furnished the copy of summary of invoices and payment receipts related to cost of improvement and copy of bank statement of Shri Pankaj Kalra showing payments to various parties

related to these transactions. The Assessee furnished the complete details from the bank statement showing the proof of making payments towards cost of improvement. The Learned CITA on perusal of the said details and on obtaining the remand report from the Learned AO observed that the Assessee had made expenditure as cost of improvement and made payments to various parties through banking channels. Hence, the Learned CITA also observed that the payments made were duly supported by documentary evidences and accordingly directed the Learned AO to grant deduction for cost of improvement of Rs. 8,41,666/-.

4.3. It is a fact that certain additional evidences were filed by the Assessee before the Learned CITA to prove the genuineness of incurrence of expenditure on account of cost of improvement together with the sources thereon. All the payments towards cost of improvement were made through regular banking channels by the Assessee. It is also a fact that the property sold was in the joint name and the cost of improvement was also carried out in the joint name and 50% of the share was met by Assessee and 50% was met by Sri Adesh Kalra. Some of the details were also filed by the Assessee before the Learned AO itself in the form of confirmations from various family members for receipt of unsecured loans which acted as a source for meeting the cost of improvement. Further confirmation from the parties to whom payments were made were also filed by the SSE before the lower authorities. These confirmations are also enclosed from pages 247 to 299 together with the copy of the invoices thereon. Hence we do not find any infirmity in the action of the Learned CITA granting relief to the Assessee in this regard. Accordingly, the Ground No. 3 raised by the revenue is dismissed.

5. The Ground No. 4 raised by the revenue is general in nature and does not require any specific adjudication.

6. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 31/12/2025.

-Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 31/12/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi