

IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

ITA No.5701/M/2025
Assessment Year: 2017-18

Jinit Shah, 101-102 Shreeji Friends CHSL, JP Road, Andheri West, Mumbai – 400058. PAN – DYGPS 9287 E	Vs.	ITO 24 (1) (1), Piramal Chambers, Room No. 604, Lower Parel, Mumbai – 40013.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Subhash Bains, Ld. A.R.
(Virtually Present)
Revenue by : Shri Sandeep Jumale, SR. D.R.
Date of Hearing : 20.11.2025
Date of Pronouncement : 30.12.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated **27.08.2025**, impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the **A.Y. 2017-18**.

2. In this case, the assessee had declared his total income at Rs.3,61,420/- by filing return of income on dated 31.10.2017 from the business of Consumer Durables, including T.V. Sets, LCD, Refrigerators, Air Conditions, Music Systems, etc.

3. The case of the assessee was selected for scrutiny under CASS for the issue '**cash deposit during the demonetization period**'. Perusing the bank details, the Assessing Officer observed

that during the demonetization period i.e. **08.11.2016 to 13.12.2016**, the assessee had deposited the amount of **Rs.33,77,900/-** in total, in two bank accounts maintained with HDFC Bank (Rs.31,89,900/- + 1,88,000/-), whereas cash deposits other than demonetization period during the AY under consideration was **Rs.2,03,736/-** only and therefore, he show caused the Assessee "as to why the cash deposit in his bank accounts should not be treated as unexplained cash credit/deposits and brought to tax accordingly".

4. The assessee somehow did not submit any response to such show cause and therefore, the AO proceeded further to decide the case/assessment on the basis of material/evidence available during the assessment proceedings. The AO observed that it is clear from the above two tables that there is discrepancy in cash sales as per cash book and month-wise sales register. In cash book, the assessee has shown cash sales of Rs.31,89,990/- from 01.11.2016 to 07.11.2016, whereas in sales register cash sales during 01.11.2016 to 07.11.2016 are of Rs.16,11,240/-. Further, as per cash book sales in the month of December, 2016 and January, 2017 are NIL, whereas as per month-wise details of sales are Rs.9,32,000/- and Rs.6,00,000/- respectively. Therefore, there is visible difference in the submission of the assessee as in the cash book the receipts for the period of 01/11/2016 to 07/11/2019 (7 days) is of Rs.31,43,240/- but in the month wise cash sales, the same amount was divided into cash sales of three months i.e. November, December and January.

4.1 The AO further observed that the above facts clearly show that there are no actual cash sales done by the assessee, but the same are afterthought of the assessee and the same is not reliable and it was fabricated to misguide the revenue to show the cash

sales of Rs. 31,89,990/- just before one week of the demonetization period. In the cash book, the assessee has shown the opening cash balance of Rs. 6,19,500/-. The assessee has not furnished any details of the source of the opening cash balance of Rs.6,19,500/- to prove the genuineness of the same. Further, on verification of the records and the online portal that the assessee has started filing his return of income from A.Y.2017-18 onwards only and till A.Y.2016-17 assessee has not filed any return of income. This shows that the assessee had no source for accumulation of opening cash balance of Rs.6,19,500/-.

4.2 The AO ultimately made the addition of Rs.35,81,636/- as unexplained money u/s.69A r.w.s. Section 115 BBE of the Act, by observing and holding as under: -

“ In absence of any reasonable explanation, the source of cash deposits in his bank accounts remains unexplained. Considering the said overall facts & circumstances, of the case, the cash deposits during the year into the bank accounts of the assessee totaling to Rs.35,81,636/- are treated as Unexplained Money u/s.69A of the I.T. Act and taxed in the hands of the assessee for the assessment year under consideration. Further, as per provisions of Section 115BBE(1) of the Act, tax is to be calculated @ 60% on income referred to section 68, 69, 69A, 69B and 69C without allowing any deduction of expenditure or allowance. Therefore, against the unexplained money u/s.69A amounting to Rs.35,81,636/-, no deduction or allowance is allowed as per provisions of section 115BBE(1) of the Act. Penalty proceedings u/s.271AAC(1) of the Act are initiated separately in addition to tax payable u/s.115BBE as the income determined includes income referred to in Section 69A of the Act.”

6. The assessee being aggrieved challenged the said addition by filing first appeal before the Ld. Commissioner and at the outset has submitted as under:

- (a) That AO has not rejected the books of accounts of the Assessee.
- (b) Further, sales are not disputed and have been offered for taxation as per books of accounts.
- (c) The purchases are not disputed and have vouched with details, as recorded in books of accounts.

- (d) *Cash deposit in bank accounts is out of sales as per cash book maintained and forming part of books of accounts.*
- (e) *There is no finding by the AO as per the booked results, as per section 145 (3) of the Act.*

7. The Ld. Commissioner though considered the aforesaid aspects/grounds raised by the assessee, disputing the assessment order however, by observing that there is a discrepancy in cash sales, cash balance, opening cash balance, which remained unexplained and there was lack of evidence for cash sales, upheld the addition made by the AO.

8. Thus, the Assessee being aggrieved has challenged the impugned order, on various aspects/grounds including legal in nature. On being asked specifically by this Court "as to whether the assessee has filed the relevant documents before the Ld. Commissioner, the Ld. Counsel for the Assessee by drawing attention of this Court to acknowledgment no. 801709811131122 issued by the E-proceeding response, demonstrated that it has already filed the following relevant documents on dated 13.11.2022.

- (a) Chart showing month wise cash sales and purchase,
- (b) Date wise cash deposits in bank,
- (c) Copy of submissions,
- (d) Period wise purchase and sales
- (e) Copy of ROI
- (f) VAT return etc.

8.1 The Assessee further claimed that by filing relevant documents, he has substantiated the purchase and sale verifiable from the month wise purchase and sale and VAT return forms etc. and thus has duly discharged its prima facie onus cast under Section 69 of the Act.

9. On the contrary, the LD. D.R. refuted the claim of the Assessee by submitting that impugned order is well reasoned and logical order and neither suffers from any perversity not impropriety and thus requires no interference .

10. Heard the parties and perused the material available on record. Though the Assessee has argued on various aspect of the case, however, at last submitted that addition if any would be made then the same would be subjected to the gross profit and or profit element embedded in the purchase and sale, but not 100% of the sales being cash amount deposited in the bank account from the sales, as the authorities below have not made any allegations and /or established that the Assessee was doing any other business than as specified by the Assessee.

11. Admittedly, the Assessee before both the authorities below has submitted the relevant documents as observed above, as also acknowledged by the AO in para 4.6 of the assessment order and by the Ld. Commissioner at page 17 of the impugned order for filing of various documents. Further, it is a fact that the AO failed to reject the books of accounts of the Assessee and therefore, eventually accepted the purchase and sales of the items and this fact strengthens the case of the Assessee indirectly. However, considering the peculiar facts and circumstances in totality, as the Assessee also alternately prayed for estimating the reasonable GP, in order to cut short the litigation, thus this Court is of the considered opinion that substantial justice would be met by sustaining the addition to the extent @ 8% of the total cash sales, being Gross Profit (GP), which include the GP already disclosed, if any and thus, the AO is directed to consider the GP as directed and by subtracting the GP shown already, if any, re-compute the tax liability accordingly.

11. In the result, Assessee's appeal is partly allowed, in the above terms.

Order pronounced in the open court on 30.12.2025.

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

* Tarun Kushwaha
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.