

**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.3609/Del/2025
Assessment Year: 2017-18

M/s. JMK Jewels Pvt. Ltd., Shop No. 302, Building No.2678/1, Diamond Mall, Main Gurudwara Road, Karol Bagh, New Delhi	Vs.	ACIT, New Delhi
PAN: AABCH6018F		
(Appellant)		(Respondent)

With

ITA No.4282/Del/2025
Assessment Year: 2017-18

DCIT, New Delhi	Vs.	M/s. JMK Jewels Pvt. Ltd., Shop No. 302, Building No.2678/1, Diamond Mall, Main Gurudwara Road, Karol Bagh, New Delhi
PAN: AABCH6018F		
(Appellant)		(Respondent)

Assessee by	Sh. Pranshu Singhal, CA Sh. Rahul Bhardwaj, Adv.
Department by	Sh. Mahesh Kumar, CIT(DR), Sh. Rajesh Tiwari, Sr. DR

Date of hearing	18.12.2025
Date of pronouncement	07.01.2026

ORDER

PER SATBEER SINGH GODARA, JM

These assessee's and Revenue's cross appeals ITA No.3609/Del/2025 and ITA No.4282/Del/2025 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/APL/S/250/2024-25/1074980455(1), dated 25.03.2025, involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case files perused.

2. Delay of 4 days in filing of the Revenue's cross appeal is condoned in larger interest of justice and in light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).
3. We advert to the first and foremost common issue of section 68 unexplained cash credits amounting to Rs.8,50,81,803/- made by the Assessing Officer; in his assessment order dated 22.12.2019; as restricted to Rs.5,99,93,826/- in the CIT(A)'s lower appellate discussion, reading as under:

"7. In Ground No. 2, the appellant has contended that the AO has erred both in law and on facts in making an addition of Rs. 8,50,81,803/- representing cash sales during the period 01.10.2016 to 08.11.2016 and erroneously held to be unexplained credit u/s 68 of the Act read with section 115BBE of the Act. The learned Assistant Commissioner of Income Tax has failed to appreciate that the approach adopted to assume and hold that the sales for

the period 1.10.2016 to 8.11.2016 represent unexplained cash credits is illegal, invalid and untenable. While making the above addition, the learned Assistant Commissioner of Income has failed to appreciate the factual substratum of the case, statutory provisions of law and as such, addition so made is highly misconceived, totally arbitrary, wholly unjustified and therefore, unsustainable. The entire addition is based on whimsical, fanciful assumptions, arbitrary inferences and overlooks the factual position on record and therefore, the same is invalid, illegal and hence unsustainable. Furthermore, the learned Assistant Commissioner of Income Tax has proceeded to make the addition on mere speculation, generalized statements, theoretical assumptions and allegations and assertions, without there being any supporting evidence and is therefore not in accordance with law. Once the learned Assistant Commissioner of Income Tax has not disputed that sales made were duly disclosed in VAT return and also in books of accounts maintained by the appellant audited under the Companies Act, 2013 and also under section 44AB of the Act, no adverse inference could be drawn in respect of the declared sales by the appellant company. The learned Assistant Commissioner of Income Tax has also erred both in law and on facts in not appreciating that once the purchases declared in the books of accounts were duly accepted then no subjective assumption and presumption could be made a basis to assume, allege and conclude that sales made out of such purchases were unexplained cash credits taxable under section 68 of the Act. The learned Assistant Commissioner of Income Tax has also failed to appreciate that having accepted books of accounts, sales made could not be regarded as unexplained credits. The learned Assistant Commissioner of Income Tax has failed to appreciate that aforesaid sales as made by the appellant were supported by availability of stock in the books of accounts which availability is not disputed and denied and is otherwise too supported by genuineness of creditors and also sales bills maintained in accordance with law and as such, there was neither any legal justification nor any valid basis to assume or presume that such genuine cash sales by the appellant in the instant year were not sales made by the appellant. The learned Assistant Commissioner of Income Tax has even otherwise failed to appreciate that cash sales since have already been offered as income by the appellant could not presumptively be rejected and held as unexplained money so as to tax the same under section 68 of the Act, when the section 68 of the Act itself is wholly inapplicable to the income already offered as income by the appellant in the return of income.

7. 1 The appellant had disclosed cash sales from 01.10.2016 to 08.11.2016 of Rs. in October 2016 & Rs. in November 2016) including VAT. The Assessing Officer added back the entire cash sales (excluding VAT) of Rs. in Oct 2016 & in Nov 2016) as unexplained cash credit u/s 68 of the Income Tax Act, 1961 in view of the following reasons:

i. No documents of evidentiary value in support of the above queries has been provided by the assessee in respect of show cause notice dated 17.12.2019 issued to the assessee.

ii. After many reminders and after many opportunities given to the assessee to justify cash sales from 01.10.2016 to 08.11.2016 it is found that proper reply along with relevant documents has not been submitted by the assessee and the documents/information which is submitted by the assessee also was found not supporting the queries raised, hence it is established that the sudden spike in the cash sales whose corresponding KYC was also not given by the assessee nor the justification was provided by the assessee w.r.t. sudden rise in cash sales in its case during the time of demonetization, hence it is established that the colourable device of cash sale was being used to bring the unaccounted money into the flow of economy and the cash sales were neither genuine nor real in any sense. These were only the accommodation entries being made by the assessee to carry out its business of colouring the black money to disguise it in form of real transaction. The entire money belonged to assessee itself.

iii. An abnormal increase in the percentage of cash sales during the period 01.10.2016 to 08.11.2016 as compared to whole of the year:

It is found that from 01.10.2016 to 30.09.2016 only around 0.25% of total cash sale of F.Y- 2016-17 (total cash sale for F.Y 2016-17 was of Rs.8,53,73,622/-) was made by the assessee and from 01.10.2016 to 31.03.2017 also only 0.10% of total cash sale of F.Y.2016-17 (total cash sale for F.Y 2016-17 was of Rs.8,53,73,622/-) was made by the assessee. It means that almost around 99% cash sale of F.Y.- 2016-17 was made from 01.10.2016 to 08.11.2016 (just before demonetization period). The facts and percentages which are coming are not tenable in any way. The question arises that how it is possible that during whole of the year no cash sale was made and only in 39 days (from 01.10.2016 to 08.11.2016)

iv. An abnormal increase in the percentage of cash sales during the F.Y.- 2016-17 as compared to last financial years:-

It is found on perusal of last two years data that in Y.- 2014-15 cash sale for whole of the year was 1.70% of total sale for the F.Y.- 2014-15, in F.Y.- 2015-16 also cash sale for whole of the year was just 2.60% of total sale for the F.Y.- However, during F.Y.2016-17 cash sale reached to almost 25% of total sale for the F.Y.- 2016-17 and further we observed that out of total cash sale for the year 2016-17, almost 99% sale was held between the period 01.10.2016 to 08.11.2016 (just before demonetization period). The facts and ratios which are coming are not tenable in any way.

v. Not submitting proper information/documents in respect of cash sale:-

In spite of asking again and again, no detail like (Name, address, PAN Number etc) were submitted by the assessee in respect of persons to whom sale was made. In a country like India if any person purchases any gold/diamond item then he/she, surely, asks for invoice/bills etc, because gold is precious metal. If that cash was received from unidentifiable persons without PAN then also Name, Address, contact number etc. of those persons is surely taken by the seller at the time of sale. Therefore, if the transactions

were genuine then could have been easily provided by the assessee so as to establish the genuineness of transactions. However, none of it was provided by the assessee. Also, it has been observed that the Cash receipts from 01.10.2016 to 08.11.2016 are not in normal line of business and detail as required to establish the parameters of genuineness, creditworthiness, identity also has not been provided by the assessee.

vi. Narration not provided correctly in respect of cash sale entries in Cash book:

Providing this narration (as mentioned under) in cash sale entries does not make any sense when actually goods have been sold in cash. Instead of providing detail of customer, the detail of bank is provided.

"Goods delivered at our office including labour, Bank Detail: Union Bank Of India, A/c No. 510405060000101 and RTGS -UBIN0551040

vii. VAT Returns were also revised by the assessee:

Vide show notice dated 17.02.2019 the assessee was required to explain the reasons for revising VAT returns with following remarks: -

"On perusal of VAT returns it is observed that almost all VAT returns were revised for the year FY. 2016-17 as under: -

1st Qtr return revised on 16.02.2017 2nd Qtr return revised on 12.03.2018

3rd Qtr return revised on 16.02.2017

4th Qtr return revised on 27.04.2017.

Assessee was required to explain reason for revising these returns and also produce original VAT returns and their reconciliation with books of accounts. In the absence of proper information along with documents being not provided by you why an adverse view should not be taken by the department in this matter

Neither tenable justification nor documents of evidentiary value has been given by the assessee in respect of show cause notice regarding revising VAT returns.

Hence, in the absence of any information available the genuineness of such act especially during the time of demonetization is not proved whether revising of returns was due to accommodation of cash sale entries or otherwise.

viii. Unable to send various notices u/s 133(6) of Income tax Act:-

It has also been provided that while gathering material, section 133(6) of the Act should be suitably invoked by the Assessing officers so as to gather additional information about persons, transactions and fund flow from the banks where the suspected transactions took place. Since no detail regarding customers has been provided by the assessee so it was not possible to send notice u/s 133(6) to any person to whom assessee has sold goods during 01.10.2016 to 08.11.2016 and can assure about genuineness of the Transactions.

ix. Hence, from 01.10.2016 to 08.11.2016 cash sale of Rs.8,50,81,803/- (Rs. 4,00,74,949/- in Oct 2016 & in Nov 2016) was held which is the cash credit to the tune of Rs.8,50,81,803/- is not explained.

7.2 During appeal proceedings, the appellant submitted detailed reply which is reproduced above the primary arguments of the appellant are summarized below:

i. Due submission in response to the show cause notice dated 17012.2019 was made before the AO on 19.12.2019. However, no consideration was given to the submissions furnished during the course of assessment.

ii. In the year under consideration, since the company has decided to venture more into retail segments, there was some increase in the cash sales as compared to the previous years. The said amount of cash arose mainly from the changing business strategies and as the cash was mandatorily required to be suddenly deposited in the bank account owing to the announcement of demonetization on 08.11.2016, necessary cash deposits were made from time to time.

iii. The company has decided to venture more into retail segments, there was some increase in the cash sales as compared to the previous years. The said amount of cash arose mainly from the changing business strategies and as the cash was mandatorily required to be suddenly deposited in the bank account owing to the announcement of demonetization on 08.11.2016, necessary cash deposits were made from time to time.

iv. The company has ventured into the retail sales more into this year which contributed to more increase in cash sales during the year under consideration. It is around the time of August/September (i.e., rakshabandhan, navratras) when the market picks up its run and retail customers start purchasing jewelry and other luxury items since then which continue till the festival season of Karvachauth, Diwali, Dhanteras, Chath Pooja etc. The occasion of festivals coupled with the new business strategy of the company to have ventured more into retail segments resulted into increase in cash sales around this period of October and November as compared to the other months in this year.

v. Survey operation u/s 133A of the Act on 22.12.2016 was also carried out and no discrepancy was found regarding the sales made and stock of goods

vi. In the assessment order, the Ld. AO has drawn an inference that no details like PAN, name, address of the buyers were submitted due to which verification u/s 133(6) of the Act could not be made. In this regard, it is submitted that it is the general accounting practice to record the transaction by crediting the 'cash account' and no name of the party is mentioned. Further, your honor's attention is invited to the provisions of Rule 114B of the Income Tax Rules, 1962 which also states that quoting of PAN

is not mandatory where value of a transaction does not exceed in sale or purchase of goods or services of any nature.

vii. there is no denial on the fact that the cash sales were made during 01.10.2016 to 08.11.2016 which were subsequently deposited in the bank account during the period of demonetization; however, no adverse inference could be drawn only on this basis. Merely by making the deposit of cash in the bank account after the currency notes of Rs. 500 and Rs. 1000 were banned w.e.f 08.11.2016 does not by itself prove an allegation of undisclosed income. Every allegation has to be supported by compulsive evidence; which in the present case has nowhere been brought on record by the AO. It is needless to state here that the entire assessment order is made up of nothing but generalized statements and ratio analysis of the cash sales and credit sales which can never be a prudent approach in unearthing the undisclosed income.

viii. assessee has been making cash sales all throughout the year and the cash out of these sale proceeds was being regularly deposited into the bank account from time to time

ix. the assessee has made total sales of Rs. 36,09,79,099 on which profit of Rs. 11 was offered for taxation. This amount of sales has also been subjected to VAT @ 1%. In support of the cash sales, the assessee had furnished VAT Returns for all the four quarters of the year under consideration. The VAT Returns for Quarter 1 and 2 were revised only for making revision in respect of inadvertent omissions and no changes were made in VAT Returns in respect of the Gross Total Turnover declared therein.

x. the addition which has been made here were sourced out of the cash sales made during the year

xi. the Ld. AO has failed to give consideration to the fact that what is being rejected here is the amount of sales which have already been taken into account in the return of income and due taxes thereon have been paid. It goes without any doubt that this has resulted in double taxation of the sale proceeds which have already been offered to tax

xii. The amount of sales made has been appropriately offered to tax in the return of income and once a particular amount is already offered for taxation, the same cannot be considered as unexplained credit u/s 68 of the Act.

xiii. a search action was carried out on Ashwani Singla on 23.12.2016 who is a director in the appellant company due to which the assessment proceedings u/s 143(3) of the Act for A. Y. 2017-18 was initiated against the appellant company. In this regard, copy of Panchnama in the case of Sh. Ashwani Singla was placed on record.

xiv. Ashwani Singla is also a director of the company M/S Harisons Diamonds Private Limited and partner of the partnership firm M/S JMK Export. Due to the search proceedings on Sh. Ashwani Singla, assessment proceedings u/s 143(3) of the Act was initiated in the case of the appellant company, M/S Harisons Diamonds Private Limited and M/S JMK Export. The appellant company, M/S Harisons Diamonds Private Limited and M/S JMK Export are related entities. In the case of M/S Harisons Diamonds Private

Limited and M/S JMK Export, the then Ldp AO made addition with regard to the cash deposited in the bank account out of cash sales made during the demonetization period which was deleted by the Hon'ble Tribunal vide order dated 23.02.2024 and 26.03.2024 respectively, the copies of which are enclosed at Paper Book Page No-8-46. Further, in the order of Harisons Diamonds Private Limited, it has been specifically stated by the Hon'ble I TAT that a survey operation u/s 133A of the Act was carried out at the business premises of the said company and not a single defect/discrepancy was found in the physical stock vis a vis book stock of the assessee. Likewise, the appellant company was also a part of the same survey operation and no defect in the physical stock was pointed out during the course of survey operation.

xv. Section 68 of the Act cannot be applied in respect of the sales credited to the profit and loss account and this has resulted into double taxation of the sale proceeds which have already been offered to tax. No discrepancies have been pointed out in the books of the assessee. Also, the stock register were furnished which completely tallies with the purchase and sales and has also not been put to doubt by the AO Cash Sales and consequent cash deposits are a regular feature of business activities of the assessee in the previous years as well as in current years. Reliance is placed on the following:

- a) Kailash Jewellery House ITA No. 613/2010 dt. 09.04.2010 (Delhi High Court)
- b) Sri Ram Tandon (1961) 42 ITR 689 (Allahabad High court)
- c) Kanpur Steel co. Ltd. (1957) 32 ITR 56 (All)
- d) Agson Global Pvt Ltd ITA No. 3741 3742, 3743, 3744, 3745 & 3746, 5264, 5265, 5266, 5267, 5268 & 5269/Del/2019, cit. 31010.2019
- e) AK Lumber Ltd ITA Nos. 8761/Dcl/2019 dated 10.07.2020 (Delhi Trib)
- f) M/s. Hirapanna Jewellers ITA No. 253/Viz./2020, dt 12.05.2021 (Vishakhapatnam – Tribunal)
- g) M/s. Jewells Emporium ITa No.303/JP/2019, 234/1P/2019, dated 15.09.2020 (Jaipur – Trib.)
- (h) Dewas Soya Ltd. ITA No. 336/Ind/2012 (Indore- Trib.)
- i) Virender Kumar ITA No. 1100/JP/2019 dt. 10.03.2021 (Jaipur — Trib)

No adverse inference has been drawn over the purchase transactions carried out during the year. Only some portion of the cash sales cannot be doubted when cash sales for the remaining year have been accepted and all the purchases are undisputed and legitimate. Reliance in this regard is placed on the following:

- a) Goverdhan India (P) Ltd IT Appcal No. 947 of 2008 dated 18.08.2008 (Delhi High Court)
- b) Akshit Kumar, ITA 348/2019 & CM APPL. 15854/2019, CM APPLö 15852/2019, CM APPL 15853/2019 dated 17.11.2020 (Delhi High courtt)
- c) Kishore Jeram Bhai Khaniya ITA Nou 1220/Del/201 1 cito 1'3.05.2014 (Delhi

Seco 68 is applicable only on cash credits. The amount under question is sale proceeds,, Once a particular amount is already offered for taxation, the same cannot be considered as

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unexplained credit u/s 68 of the Act. The pre-dominant clement for making addition u/s 68 of the Act is the onus casted upon the recipient of the money to prove the source of funds received by him/her which has been duly established.

a) Singhal Exim Pvt ltd ITA No. 228/2020 dated 22.02.2021 (Delhi High court)

b) Vishal Exports Overseas Ltd. ITA No. 2471/2009 (Guj)

c) S.B3 Steel Industries ITA No. 264/Hyd/201 1 (Hyd Trib.)

(xi) There are five major heads of income viz, Salary, income from house property, profit from business or profession, capital gains and income from other sources. If an item of income falls under one head, it cannot be shifted to another head merely because of the AO's approach in taxing the same at a higher rate. Where the nature and source of the transactions are spelt out, the source of income would stand explained. In such situations, the need to invoke the deeming provisions of Section 68 would stand obviated. If it is possible to peg the income under any one of those heads by virtue of a satisfactory explanation being given, then these provisions of sections 69, 69A, 69B and 69C will not apply, in which event, the provisions regarding deductions, etc., applicable to the relevant head of income under which such income falls will automatically be attracted. This is the ratio of decision in *Fakir Mohmed Hajj Hasan vs. CIT* [20021 120 Taxman 1 1 (Gujarat). Reliance was also laced upon the following:

a) *Lakhmichand Bajinath vs CIT, West Bengal, [1958] 35 ITR 416*

b) *Daulatram Rawatmull vs CIT [1973] 87 ITR 349 (SC)*

c) *Mansfield & sons vs CIT [1963] 48 iTR 254*

d) *Shri Manoj Chainsukh Asawa Vs. ITO, Ward-4 (1), Nagpur, LT A. No. 179/Nag/2014*

e) *M/s. Sri Balamurugan Textile vs ACIT, ITA 344 of 2009 dated 15.072019 (Mad)*

7.3 I have considered facts of the case as well as written submissions of the appellant. The appellant is carrying out business of trading & manufacturing of jewellery items like

Bullion, Gold etc at Shop no. 301, Building No. 2645, Bank Street, Karol Bagh, New Delhi 1 1 0005. The appellant had deposited cash of Rs. during demonetization period which was sourced out of cash sales, In this regard, the appellant has placed various documents such as

- item wise stock registers
- Month wise and party wise purchases made
- Month wise and party wise sales
- Bank Account statement along with bank book and bank reconciliation statement.
- Sales Register
- Purchase register
- Sales & Purchase Summary
- Month wise detail of cash from 01.04.2015 to 08.11.2015
- Month wise detail of cash from 01.04.2016 to 08.11.2016
- Comparison of cash sales and credit sales for FY 2014-15, FY 2015-16 and FY 2016-17.
- VAT Returns filed for the year (Original as well as Revised)

7.4 I have also perused the VAT returns original and revised both and VAT assessment order where no adverse inference was drawn.

7.5 The appellant is a jeweller and had cash sales of 853736221* in FY 2016-17. The AO disallowed the entire cash sales made from 01.10.2016 to 08.11.2016 of Rs. 850818031m and held it be unexplained cash credit u/s 68 of the Act. In 2016, Diwali was celebrated on 30.10.2016 and the festive season was mainly during the period 01.10.2016 to 08.11.2016. In view of this, treating all the cash sales to be unexplained cash credit is not correct action of the AO. The appellant had submitted month wise details of cash to prove the cash sales made during that period which establishes the cash sales made by the appellant. Further, it is an also admitted fact that the appellant credited all such cash sales in its Profit and loss account and section 68 cannot be applied on it in view of the various decisions. However, the fact that the appellant had made huge cash sales as compared to previous years cannot be brushed aside. Therefore, considering the past two years cash sales trends, I am inclined to apply the proportionate increase in cash sales as increased in the last two years.

7.6 Therefore, considering the past two year's cash sales trends upto the month of Diwali festivals i.e. Karwa Chauth, Diwali, Dhan Teras, Chhat Puja etc., I am inclined to apply the proportionate increase in cash sales as increased in the last two years.

Year wise cash sales for the period upto Diwali festivals:

FY 2014-15 : Rs. (excluding VAT)

FY 2015-16 : Rs. (excluding VAT)

FY 2016-17 : Rs. (excluding VAT)

Percentage increase in cash sales from FY 2014-15 to FY 2015-16 upto Diwali festivals is 42.71%, Therefore, applying the same percentage to current year's cash sales upto Diwali festivals/Chhat Puja, the amount of cash sales for FY 2016-17 upto period of Diwali festivals comes out to be Rs. 8,50,81,803/-

7.7 Therefore, out of total cash sales of Rs.8,50,81,803/- treated as unexplained by the AO, it is hereby held that Rs.2,50,87,977/- is treated as explained and the balance cash sales of Rs.5,99,93,826/- is treated as unexplained and is hereby confirmed. Ground no. 2 of the appeal is partly allowed.”

This is what leaves both the parties aggrieved who have filed their instant respective cross appeals before the tribunal.

4. Both the learned representatives reiterated their respective stands against and in support of the impugned section 68 addition made by the Assessing Officer in entirety. It is made clear that there

is hardly any dispute that the assessee, a company, is engaged in trading and manufacturing of jewellery items, i.e., bullion and gold business etc. at Karol Bagh, New Delhi. It had admittedly deposited the impugned cash sum of Rs.8,50,81,803/- during demonetization in F.Y. 2016-17. Learned counsel refers to the assessee's detailed case records, inter alia, compiling its books of account, profit and loss, balance-sheet etc. to buttress the point that it has duly proved source of the impugned cash deposits as part of the regular business sales in case only which ought to have been accepted by both the learned lower authorities. The Revenue, on the other hand, vehemently supports the learned Assessing Officer's detailed discussion treating the assessee's entire cash deposits in issue as unexplained u/s 68 of the Act.

5. We have given our thoughtful consideration to the assessee's and the Revenue's foregoing vehement submissions and find no reason to accept neither party's stand in entirety. We first of all refer *Sumati Dayal Vs. CIT* (1995) 214 ITR 801 (SC), *CIT Vs. Durga Prasad More* (1971) 82 ITR 540 (SC) and *PCIT Vs. NRA Iron & Steel Co.* (2019) 412 ITR 161 (SC) that any evidence filed in the course of income tax proceedings has to be examined in light of human

probabilities, after removing all blinkers and that mere submission of documentary evidence does not itself discharge an assessee's onus to prove genuineness of such cash credits. Learned counsel could hardly dispute in this factual backdrop that the assessee has failed to prove its abnormal cash sales during the demonetization period as noticed both in the assessment order as well as in the lower appellate discussion. The fact also remains that both the learned lower authorities have not pinpointed any specific defects in the assessee's books of account as well whilst treating the impugned cash deposits as part of cash sales/regular business turnover in bullion and gold trading etc. as unexplained. We are of the considered view in this factual backdrop that a further *lumpsum* GP estimation @ 5% in the assessee's case regarding the impugned entire cash deposits of Rs.8,50,81,803/- would be just and proper in these peculiar facts with a rider that the same shall not be treated as a precedent. The assessee's book entries to this effect stand rejected in very terms. Necessary computation shall follow as per law.

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. This assessee's appeal ITA No. 3609/Del/2025 is partly allowed in above terms.

6. We next notice that the Revenue's cross appeal ITA No. 4282/Del/2025 seeking to revive some regular business disallowances i.e. staff welfare, conveyance, Diwali, closing stock, excise duty u/s 43B, interest disallowance on OD, director's remuneration and purchases etc., hardly need to be discussed and decided at length in light of the assessee's foregoing book rejection on our part in preceding paras and going by Prasant Oil Mill vs Income-tax Officer [2016] 72 taxmann.com 136 (Gujarat) and Indwell Construction Vs. CIT [1998] 232 ITR 772 (AP). We thus uphold the learned CIT(A)'s lower appellate discussion deleting the impugned disallowance in very terms.

7. Learned CIT(DR) further submits that our preceding discussion rejecting the Revenue's grounds could not be held to have covered the assessee's bogus purchases disallowance of

Rs.7,11,20,764/- and closing stock additions of Rs.11,12,28,254/- respectively.

8. We are of the considered view that the learned CIT(A)'s detailed discussion in paragraphs 11 to 11.13 has made it clear that not only the assessee's nine suppliers had duly confirmed its claim in support of the impugned purchases but also the Assessing Officer's remand report filed in the lower appellate proceedings had nowhere made any adverse comments to the very effect. We thus uphold the learned CIT(A)'s lower appellate findings deleting the impugned bogus purchases disallowance. The outcome of the Revenue's last ground regarding addition of closing stock-in-trade amounting to Rs.11,12,28,254/- would be any different as the assessee had duly completed and proved the necessary reconciliation/verification thereof forming part of the lower appellate discussion herein reading as under:

15. *In Ground No. 10, the appellant has made the following contentions:*

- *That the AO has erred both in law and on facts in making an addition of Rs. 11,12,28,254/- representing the closing stock in trade and brought to tax as income of the appellant for the instant assessment year.*
- *That various adverse findings recorded are not based on correct appreciation of facts of the case of the appellant and statutory provisions of law and thus wholly inapplicable.*
- *That the finding that no justification provided by the appellant company in respect of closing stock for the instant. assessment*

year is without opportunity and otherwise too, absolutely arbitrary, unjustified and unsustainable.

- *That the edifice adopted by the AO to assume that stocks worth of Rs.11,12,28,254/- was income is otherwise too fundamentally erroneous, factually misconceived, legally untenable apart from being illogical and wholly untenable.*
- *That the AO has failed to appreciate that closing stock was adopted at income of the appellant for the succeeding assessment year and thus an opening stock in the succeeding assessment year and as such could not be treated as income of the appellant company.*
- *That the AO since has not rejected books of accounts under section 145(3) of the Act, addition made is otherwise too untenable and unsustainable.*
- *That the AO has failed to appreciate that closing stock since does not represent as it is merely balance income in any of the assessment year and even otherwise, no addition could be made in respect of stock as income of the appellant in the instant assessment year and thus unsustainable.*

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15.1 *During the course of assessment proceedings, the Assessing Officer directed the appellant to explain the difference in the closing stock of traded goods of Rs. 11,12,28,254/- with proper documentary evidence.*

15.2 *The Assessing Officer made an addition of Rs. 11,12,28,254/- on the grounds that no document and no proper reply along with explanation was given by the assessee to substantiate the claim made. Also, the Assessing Officer stated that the appellant had traded goods worth Rs. 15,22,34,297/- which were purchased by the appellant during the year and no sale of trading goods during the year makes it clear that these goods must be held in closing stock.*

15.3 *During the appellate proceedings, the appellant had submitted that the revenue from operations as declared in the profit and loss accounts constitutes both 'sale of manufactured goods' and (sale of traded goods'. It is just a matter of different presentation adopted in the financial statements wherein no separate head of revenue from traded goods was mentioned. Rather, all the revenue from traded goods was included in the revenue from manufactured goods, In support of the quantitative details of all the items held as Raw material and stock in trade (whether traded or manufactured), a separate sheet mentioning the details of inventory held, consumed, manufactured and sold during the year was furnished which clearly mentions each item of stock purchased, items manufactured, items consumed and items sold (including stock issued to Job Worker) during the year, Corresponding to each item of stock, the assessee*

has separately demarked each item as to whether it was traded or manufactured stock. Further, the appellant had submitted stock registers which evidently reflects the complete inwards and outwards position of stock i.e., whether the item was purchased or sold, sent to job worker or was consumed during the year. The said details of stock can also be verified from the quantitative details of raw material and stock in trade as furnished in the tax audit report. The relevant part of submission is reproduced as under:

.....

The same addition was made by the Ld. AO in the hands of the assessee company and the same shall not sustain in the case of the assessee. Hence, the addition so made by the AO in the instant case of the assessee company of Rs.8,50,81,803/- on account of cash deposited in the bank account out of cash sales made in the normal course of business during the year under consideration is liable to be deleted as such”

9. All these clinching facts have gone unrebutted from the Revenue side. We thus find merit in the assessee’s vehement submissions supporting the learned CIT(A)’s above extracted lower appellate discussion. The Revenue fails in its instant last substantive ground therefore.

10. This assessee’s appeal ITA No.3609/Del/2025 is partly allowed and department’s cross appeal ITA No. 4282/Del/2025 is dismissed. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 7th January, 2026

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 7th January, 2026.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi