

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
(Hybrid Hearing)**

**I.T.A. No. 129/Asr/2025
Assessment Year: 2017-18**

Divay Mohindru, Prop. M/s Mahavir Abhushans, Deep Market Juakhana Bazar Kalan, Jalandhar. [PAN:-ADVPM1552D] (Appellant)	Vs.	ITO, Ward 3(1), Jalandhar. (Respondent)
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Appellant by	Sh. Asharay Sarna, CA.
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	14.10.2025
Date of Pronouncement	08.01.2026

ORDER

Per: Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT (A), NFAC, Delhi, passed u/s 250 of the Act, 1961 vide order dated 12.02.2025 which has emanated from the order of AO, Income Tax Officer, Ward-3(1), passed u/s 143(3) of the Act, vide order dated 30.12.2019.

2. The grounds of appeal raised by the assessee in Form 36 are as follows:

“1. That the order passed by the Hon'ble CIT(A) dated 12.02.2025 is against the law and facts of the case.

2. That having regard to the facts and circumstances of the case, Hon'ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned assessment order u/s 143(3) of the Act and without considering the mandatory conditions u/s 143 as envisaged under the Income Tax Act, 1961.

3. That having regard to the facts and circumstances of the case, Hon'ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an addition of Rs.2,75,57,700/- u/s 69A of the Act and taxing the same u/s 115BBE, on account of cash deposited in bank account considering as unexplained money, without considering the facts of the case and without observing the principles of natural justice.

4. That having regard to the facts and circumstances of the case. Hon'ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an addition u/s 69A of the Act and charging tax as per section 115BBE of the Act, without considering the facts of the case.

5. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

3. Brief facts emerging from records are that the assessee is engaged in the business of trading of gold ornaments and jewelleryes under the trade name of

“*Mahavir Abhushans* ”. Regular return filed disclosing returned income at Rs. 22,04,540/- on a gross turnover of Rs. 13.21 crores, has been selected for scrutiny under CASS for verification of “*large amount of cash deposits in bank account*” during the demonetisation period, amounting to Rs.4.09 crores and after examination of books of accounts, documentary evidences, submissions and explanations , during scrutiny , an amount worked out by the AO at Rs.1.34 crores, was accepted to have been properly explained to have arisen out of genuine explained sources and the *balance of Rs. 2.75 crores (Rs. 4.09 minus Rs.1.34)* , deposited in bank during the *demo period*, was considered as unexplained income (*due to reasons contained in para 3.7 of the assessment order,*) and the same has been added back, and finally the assessment was completed on a total income of Rs.2.91 crores (*including an addition of Rs.2.75 crores u/s 69A being the alleged unexplained cash deposit in bank*) , after invoking the provisions of section 145(3) of the Act 61 ***in part*** , and has worked out profits on altered trading A/c figures by reducing disclosed sales (*as per 3.8 of the assessment order*) .

4. The matter was carried in first appeal, in course of which elaborate submissions were filed along with documentary evidence consisting of stock register, purchase register, confirmed ledger A/c of purchases and sales , month wise details of cash sales and deposits for the entire period , bank statements,

copies of VAT returns, month wise details of purchase and sales, debtors and creditors details along with ledger , and complete sets of books of accounts (*un audited*) , along with additional evidences, for which remand report was obtained *under Rule 46A of the Rules 62*. Further queries raised in course of remand were also responded along with more details and particulars as asked for by the AO, which were considered and remand report submitted against which the issues raised by the AO has been explained by way of *rejoinder to remand*.

5) Thereafter, the Ld CIT (A) after considering all materials and evidences on record has dismissed the appeal “*on pre ponderance of probabilities* ”, rather than on any contrary evidence brought on record by observing in para 8 of his order as follows :

“8.5 In the light of the above discussion, it is crystal clear that the appellant has failed to prove as to how she ordered for additional stock, how the stock was received, how the purchases were made on credit and why the sales were predominantly in cash that too just before demonetization. The accounts were prepared subsequently and VAT returns were also filed on the basis of the accounts. But, they are away from reality and the transactions in question have not been explained satisfactorily. Thus, the AO has rightly rejected u/s. 145(3) of the Act the books of accounts as the accounts were found to be fabricated. The AO has been very fair

and just in allowing cash deposit as explained to the tune of Rs. 1,34,36,800/- and has brought to tax only the balance amount which was unexplained and beyond the normal probability of business of Rs.2,75,57,700/- as unexplained money u/s. 69A of the Act. The said addition is also upheld. AO has also rightly invoked the provisions of section 115BBE of the Act as the addition has been made u/s. 69A of the Act. Ground no. 3 to 6 are dismissed.

9. In the result, for statistical purposes the appeal is dismissed.”

5.1 Now, the assessee is before the tribunal on the ground contained in the memorandum of appeal.

6. In course of hearing before the tribunal, the assessee has filed a paper book containing copies of day to day stock register along with quantitative details, sales register, purchase register, and ledger copies of purchase accounts (*confirmed by parties*), ledger of sales (*confirmed by the parties*), month wise details of cash sales and corresponding deposits, copies of bank statement, copy of VAT returns and month wise details of purchase and sales, along with copies of trading profit and loss account of balance, debtors and creditors list and complete set of books of account including cash book.

6.1 The ld. AR submitted that the AO has erred in law in rejecting the books and taking recourse of section 145(3) of the Act and he has raised objections regarding the part rejection of books as stated by the AO in the assessment

order. The Id. AR submitted that as per provisions of law if books of account are found to be incorrect it is to be rejected in full, because there has no such legal concept as *part rejection of books*, and for recast of the trading a/c for determining profits.

6.2 He further submitted that there are no evidence on record indicating incorrect entries in books of accounts, and the AO has not made out a case for rejection of book results and various questionnaire has been raised in course of assessment proceedings and the assessee has furnished full response to all such queries and the main issue raised by the AO regarding the source of deposit of cash in the bank account has been explained to have arisen out of regular sales of trading of gold jewellery and ornaments.

6.3 He further submitted that the sales are duly accounted for in the books of account and are duly disclosed in the VAT returns and the income tax returns and the entire sales proceeds has been made out of the available *stock in trade* as apparent from the day to day stock register maintained which also takes into consideration the purchases made by the assessee during the year under consideration and in order to substantiate the same , day to day stock register containing quantitative details of stock traded, has been filed along with sales and purchase register which has been duly examined by the AO.

6.4 He further submitted that purchases made from various parties has been confirmed by the respective sellers and such confirmations certificate are contained in paper book *page nos. 57 to 92*, and the AO has not brought any evidence to the contrary to disprove the said purchase, the payments of which has all been made through bank channel duly reflected in bank statements.

6.5 He further drew our attention to *page nos. 93 to 101 of the paper book* to submit that the sales affected by the assessee to various parties are supported by date wise details of bill number and in some cases as verified by the AO is also confirmed by the parties

6.6 Thereafter the ld. AR of the assessee took us to *page nos. 29 to 31 of the paper book* where details of cash sales are contained relating to October and November 2016 , and pointed out that there is no reason to doubt the said sales because on respective dates sufficient quantity of stock was available for trading , and when stock is available and duly recorded in stock register (which is accepted) there is no reason to dispute the sales .

6.7 The ld. AR further submitted that increase in sales for a particular period in comparison to immediately earlier period does not lead to an automatic conclusion that the sales executed were not genuine when the same are substantiated by documentary evidences placed on record by way of sales bills and confirmed particulars from various parties and are recorded in books of

account and entered in VAT returns. He further stated that the entire purchases of the assessee are accepted by the department and there is no adverse finding in respect of *the debtors and creditors* as well as the opening balance is accepted and in the instant case it will be found that sales are mainly incurred in the months of October 2016 and carried on up till 8th November 2016, when there could not have been any violation of the provisions of the Act. He further submitted that only the contention raised by the AO is based on assumption as to how the such huge amount of sale could take place only at short period of time, but the AO has not disputed the available stock in trade and he further submitted that the assessee has provided the confirmed sales purchase ledger and the day to day stock register and no adverse report has been found on examination of the same.

7. Regarding the allegation of the AO that the assessee has shown cash sales of huge amount to number of persons but the assessee has failed to prove the identity by giving completed address and contact numbers, the Ld AR submitted that confirmed copies of ledger a/cs of the purchaser has been filed which are also a part of this paper book and no adverse findings has been noted.

7.1 The ld. AR further submitted that the AO has rejected book results in part but he has not made out a case for rejection of books and no specific defects has been pointed out in the books of account so produced which are completed

set of books of account complete with stock register. In support of his contention the ld. AR placed reliance on judicial precedents which are as under:

- i. *ACIT vs. Roopchand Tharani, 249 CTR 0326.*
- ii. *CIT vs. Om Overseas, 173 taxman 185 (P & H).*
- iii. *CIT vs. Kailash Jewellery House, ITA 613/2010 (HC. Delhi).*
- iv. *J.M. Wires Inds. Vs. CIT 205 taxman 134 (HC Delhi).*

8. On the issue of applicability of section 69A, the ld. AR of the assessee submitted that in the present case, the assessee has already disclosed the entire amount as sale and has disclosed the same in the return of income and also in the VAT returns and books of account and has categorically stated that the source of such deposits has arisen out of regular sale proceeds which are also supported by documentary evidences and as such, once, the source of deposit are explained applicability of provisions of section 69A does not arise.

9. Regarding the issue of human probabilities as pointed out by the ld. CIT(A), the ld. AR of the assessee submitted that the question of human probabilities arises out of surrounding circumstances and facts of the case and in the present situation, the assessee is engaged in the business of *trading of jewellery and gold ornaments* and has no other source of income.

9.1 In support of his contention, he also submitted before the bench, copies of assessment order in the assessee own case for *the assessment year 2018-19*

(i.e. *immediately following assessment year*), where assessment has been completed u/s 147/144B of the Act dated 2nd March, 2024

and as per the copy filed before us, the issue of unexplained credit in bank account to the tune of *Rs.68.63 crores* were taken up for reassessment u/s 148 and after verification and examination of all documentary evidences such as *sales register, cash book, bank statement* and all incidental document of *purchase and stock*, gross receipt from sales has been accepted at *Rs.74.09 crores* and assessment has been completed on *the returned income of Rs.6,21,000/- (which has been cited as a comparative case because the nature of business and circumstances under which carried out remained the same)* by the ld. AR.

10) Thereafter the ld. AR of the assessee drew our attention to the date wise stock register to point out that there was no shortage of stock of gold at any time during the entire year and purchase of gold has been duly recorded date wise supported by purchases invoices which has not been disputed and submitted that when the purchase of gold has not been disputed and accepted as correct which are duly recorded in the day to day stock register, the sales of gold jewellery out of the said gold cannot be disputed without bringing any adverse evidence to disprove the same.

11) . He further submitted that the entire sales of gold in cash on 08.11.2016 as recorded in the sale register amount to Rs.2.49 crores and he refers to the corresponding stock register of the said date to point out that availability of stock on the date of sale is not disputed in other words whatever sales i.e. has been affected on the said date are available in stock register.

12.) Before concluding his arguments, the Id. AR also pointed out that the issues raised by the AO in the remand report that cash could not be deposited in bank on a single day, the Id. AR explained that on account of heavy rush in the bank (*post demonitisation*) it was not possible to carry the entire cash on a single day to bank because of security reasons and deposit on the same date was also not physically possible because the bank was obliged to attend all the customers and it was not possible for the bank authorities , to count the cash on a single day, at a single counter and the deposit of money was spread over a period of several days .

13). He further submitted that the contention raised by the AO that the assessee has not filed PANs it is clarified by the Id. AR that PAN of all the parties has been submitted along with confirmations and copy of the same is also enclosed in *page no. 411 of the paper book*.

14). He further submitted that the VAT assessment has been completed by accepting the returned sale and no adverse inference has been drawn by the

VAT authorities where purchases are accepted, opening balance are accepted and stock register are also accepted which proves that the sales incurred by the assessee is genuine and cash deposit is from the genuine sales which are flowing out of explained source and as such, he prayed that the addition made by the AO and sustained by the Id. first appellate authority may please be deleted.

15) The Ld DR relied on the order of the Ld CIT (A) and submitted that as rightly pointed out by the first appellate authority, it is not properly explained how that much quantity of gold stock was arranged by the assessee on credit to be sold to customers within a short period of one month and eight days , the sale proceeds of which has been deposited in bank and the same does not appear to be practical and real on preponderance of probabilities. However, he has not found out any specific error in the paper book submitted neither in the availability of stock nor on purchase A/c considering that all purchase are routed through bank channel.

16). We have heard the rival submission and considered all materials on record and the contents of the paper book and we are of the opinion that accounts regularly maintained in regular course of business have to be taken as correct unless there are sufficient reasons to indicate that they are unreliable, incorrect or incomplete. There is no evidence that purchases or sales are omitted (*in fact*

it is the other way round where all purchase and sales are found to be recorded

) or in other words there is no challenge to the transactions represented by the entries or genuineness of the entries and nothing has been brought on record to disprove the same with evidence on record . The AO in the instant case has not challenged the method of accounting as such , and it is not a case where income cannot be deduced from the complicated accounting system and there is neither any challenge to the net profits disclosed nor a case for rejection of books has been made out and the conditions laid out in section 145(3) has not been satisfied in this case and we are of the view that book results cannot be arbitrarily rejected on the basis of preponderance of probabilities .

17) As such we are of the opinion that the cash book cannot be rejected and when the availability of STOCK in trade is not disputed as per stock register which is accepted, the sales of goods out of available stock cannot be disregarded as ingenuine.

18). Moreover, the business volume of the assessee in the year under appeal is fully matching with the comparison of the business volume in the immediately succeeding year , as filed before the tribunal as comparative case.

19) As such we are of the opinion that the addition relating to unexplained cash deposits in bank in the instant case are explained to have arisen out of disclosed sales in books of accounts and are liable to deleted.

20) As such the appeal of the assessee is allowed.

Order pronounced on 08.01.2026 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(MANOJ KUMAR AGGARWAL)
Accountant Member

Sd/-

(UDAYAN DASGUPTA)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The DR, I.T.A.T.

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By order