

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No. 2731/Del/2025
(Assessment Year:2017-18)**

Harjeet Kaur S-004, F Block, Omax Queen, Gautam Buddha Nagar, Uttar Pradesh 201301	Vs.	Circle 5(1)(1) Income Tax Department GB Nagar Uttar Pradesh – 201307
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AZZPK6790P		
Appellant	..	Respondent

Appellant by :	Sh. Ravi Pratap Mall, Adv.
Respondent by :	Ms. Pooja Swaroop, CIT, DR

Date of Hearing	05.01.2026
Date of Pronouncement	09.01.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 28.02.2025 of the Ld. National Faceless Appeal Centre (NFAC) (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’) in DIN & Order No : ITBA/NFAC/S/250/2024-25/1073811772(1) arising out of the

order dated 07.11.2019 u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the ACIT, Circle 5(1) for AY: 2017-18.

2. Heard and perused the records. The assessee is carrying on business under the name and style of M/s SAHS Foods, earning income from poultry forming business. The return of income was filed declaring income of Rs.84,64,380/- on 31.03.2018 and the case of the assessee was selected for scrutiny assessment, however the assessment was completed u/s 144 of the Act by the AO by making addition of Rs.11,45,56,909/-. The addition of Rs.1,49,37,390/- was made on account of alleged cash deposits in Canara Bank A/c No. 4803214000021 and of Rs.7,27,14,262/- on account of alleged cash deposits in Canara Bank A/c No. 4803214000023. Further NP assessment addition @ 8% of turnover of Rs.28,00,16,784/- at Rs. 1,84,40,877/- was made.

3. Assessee challenged the same before Id. First Appellate Authority wherein the impugned order dated 28.02.2025 has been passed whereby the assessment order passed u/s 144 has been set aside for fresh assessment.

4. The assessee has come up in appeal raising following grounds:

- “1. *The Ld/-CIT(A) erred in law and facts of the case in hand by setting aside the case u/s 68 the Act even after obtaining a remand report dated, 25.07.2024 from the JAO which is arbitrary, baseless and bad in law.*
2. *The Ld/-CIT(A) has erred in law and facts of the matter in disregarding the remand report dated, 25.07.2024, being complete and conclusive, without giving any valid reasons for setting aside the matter to be adjudicated afresh which is arbitrary and against the principles of natural justice.*
3. *The Ld/-CIT(A) and Ld/- AO has erred in law and facts of the matter in failing to provide reasonable opportunity to the appellant before setting aside the matter to the Ld/-AO which is completely against the principles of natural justice.*
4. *The Ld/-CIT(A) has erred in law and facts of the matter in disregarding the remand report of the Ld/-AO where the Ld/-AO categorically accepted the contentions of the assessee and also examined the entire books of accounts on test check basis which is sufficient examination and no adverse comments were made by the Ld/-AO in his remand report dated, 25.07.2024.*
5. *The Ld/- CIT(A) has grossly erred in law and facts in not passing an order on merits on an addition of Rs. 1,49,37,390/- on account of alleged unexplained cash deposits into a bank account number 4803214000021 maintained with Canara Bank which does not belong to the appellant and which has also been accepted by the Ld. AO in his remand report dt. 25.07.2024 hence, the addition made u/s 68 of the Act is uncalled for and bad in law.*
6. *The Ld/- CIT(A) has grossly erred in law and facts of the case in not passing an order on merits for an addition of Rs. 7,27,14,262/- on account of alleged unexplained cash deposits in Canara bank under account*

number 4803214000023, where, in fact the amount of cash deposited into the bank is Rs. 6,86,21,532/- only which has also been accepted by the Ld. AO in the remand report dt. 25.07.2025.

7. *The Ld/- CITA) has erred in appreciating the fact that the cash deposits made to the bank account of the appellant are in fact sales receipts from business activity of the appellant and the same have already been offered to tax in the year under consideration and which is accepted by the Ld. AO vide remand report dt. 25.07.2025 hence, the addition deserves to be deleted on this fact alone.*
 8. *The Ld/- CIT(A) has erred in law and facts in failing to pass an order on merits in respect of an addition of Rs. 1,84,40,877/- by revising the net profit ratio to 8% without appreciating or investigating the fact that the profits earned and reported by the appellant are in line with the profits earned by the poultry farming industry or even the earlier years returns filed by the appellant which have been accepted by the Income Tax Department in such years. Also, the additions made to the income of the assessee would result in double tax also where the entire set of books of accounts were furnished before the Ld. CIT(A) and Ld. AO in remand proceedings being arbitrary, baseless and bad in law.*
 9. *The Ld/-CIT(A) has erred in law and facts of the matter in setting aside the case to the Ld/-AO without specifying any inaccuracies in the remand report which is arbitrary, baseless of against the principles of natural justice.”*
5. On hearing both sides at length we find that assessee had filed additional evidences by taking recourse to Rule 46A and remand report dated 25.07.2024 was received by the CIT(A) and thereby the CIT(A) instead of

reaching conclusion on its own has set aside the assessment order for making fresh assessment by the following findings in para 5.2.3.

“5.2.3 In view of the above facts, it is felt that the submissions filed by the appellant in its ground of appeal as well the documents which have been submitted are required to be examined by the Assessing officer to arrive at a correct conclusion. Though the case was remanded to the AO for further examination it is seen that due to paucity of time, he could not do proper and complete enquiry including verification of Books of Accounts and other enquiries. Therefore, the Order passed by the AO u/s. 144 of the Act dated 07.11.2019, is hereby set aside for making fresh assessment. Needless to say, that the AO should, while conducting the set aside proceedings, give proper opportunities of representation of its case to the appellant and take into account any further submission which it has to file during the course of the said proceedings. The appellant should comply with the correspondences issued by the AO.”

6. The Id. DR has primarily contended that as assessment has been set aside, therefore, assessee cannot agitate the issue before the Tribunal and whatever facts have been asserted by the assessee require verification, therefore, CIT(A) was justified to take recourse to the proviso to Section 251(1)(a) of the Act inserted in the Act w.e.f 01.10.2024.

7. Ld. counsel however, asserts that when additional evidences were furnished and accepted in remand report proceeding by the AO, then CIT(A) could not have set aside the issue and refer the case directing the Assessing Officer for making a fresh assessment.

8. Giving thoughtful consideration to the facts and circumstances we find that the impugned assessment order is dated 07.11.2019 and the appeal was instituted before CIT(A) on 06.12.2019. Then at page 51-63 of the paper book assessee has filed a copy of application dated 10.03.2021 by which assessee had sought permission for admission of additional evidences under Rule 46. The assessee had explained the reasons for failure to appear in the assessment proceedings explaining that notice were issued on an email address which belongs to an employee of the assessee who was employed with the sister concern and he had further met an accident and was critically ill during the relevant period when the assessment u/s 144 of the Act was completed.

9. Now what is material is that CIT(A) in para 5 of the impugned order mentions that remand report was called on the additional evidence and AO has submitted remand report dated 25.07.2024.

9.1 As we go through this remand report we find that Assessing Officer admitted that the impugned bank A/c No. 4803214000021 maintained with Canara Bank does not belong to the assessee and this account is held by M/s SAHS Life Sciences Pvt. Ltd. and in para 5.4.5 of the remand report this fact was admitted meaning thereby that addition on account of deposits in this bank A/c No. 4803214000021 were not justified at all in the hands of assessee.

9.2 Then with regard to additions on account of unexplained cash deposits in Canara Bank A/c No. 4803214000023 assessee had asserted the cash deposit was not Rs.7,27,14,262/- but Rs.6,86,21,532/-. The copy of bank account statements were provided in the additional evidences and assessee had asserted that these cash deposits were out of cash sales made during the year and assessee had furnished the details of sales of her proprietorship concern SAHS Foods Pvt. Branchwise (Noida, Hyderabad, Jabalpur, Karnal, Namakal and Pune) and the cash deposits details were also provided in the additional evidences. In the remand report in para 5.5.2 & 5.5.3 Assessing Officer commented that *“It was verified from the books of the appellant that the cash deposited in A/c No. 4803214000023 were from the cash balances*

available on the respective dates. It was observed that most of the sales made by the assessee were in cash.”

9.3 Thus for all purposes no inference of any unaccounted source cash credit can be drawn to sustain additions on account of cash deposits in Canara Bank A/c No. 4803214000023.

10. Then with regard to rejection of books of accounts Assessing Officer in remand report had mentioned that as assessee had not responded to show cause notice during the assessment the books of account were rejected and addition by revising the net profit rate to 8% was made. However, what we find is that during the appellate proceedings in the form of additional evidences the assessee had provided the books of account including sales ledger, purchase ledger, copy of books, other ledger account bills/voucher, dharamkanta slips etc. which were examined by the Assessing Officer on ‘test check basis’. However, even in ‘test check basis’ Assessing Officer had not pointed out any discrepancy or any suspicious inconsistency in any of the books of account and ledgers. Thus there was no question to doubt to books any more so as to be rejected.

11. After taking into consideration the aforesaid facts and circumstances we find substance in the contention of Id. Counsel that once assessee has taken recourse of Rule 46A of the Income Tax Rules 1962 and Assessing Officer was called upon to file remand report and who after verification filed elaborate remand report which has been duly considered and recorded in the impugned order of Id. First Appellate Authority, then, there was no reason or justification that the Ld. First Appellate Authority should have set aside the assessment order for passing a fresh assessment order thereby giving fresh lease of life in the hands of Assessing Officer.

12. The powers vested by way of proviso to Section 251(1)(a) of the Act upon Commissioners of Appeals in case of assessment made u/s 144 of the Act has to be justified for reasons more than just further verification of facts and evidences admitted in first appeal, as the co-terminus of powers of the Commissioner of Appeals gives them sufficient opportunity to decide the issue of facts and law on the basis of all the material before them including remand report. In fact to our mind such a power to set aside assessment completed u/s 144 of the Act needs to be exercised at the threshold of admission of appeal and not where the additional evidences are filed and

admitted after opportunity to the assessing officer. Then merely because the assessment is under section 144 of the Act, the power to set aside assessment for fresh assessment, as now introduced, should not be exercised else it will only chock the tax adjudication mechanism. Even otherwise, this tribunal being last fact finding authority is always competent to look into the additional evidences admitted by Id. First appellate authority and if satisfied pass conclusive findings on the issues involved.

13. Thus on the basis of aforesaid discussion on the basis of remand report it is sufficiently established that addition of Rs.1,49,37,397/- on account of cash deposits in Canara Bank account No. 4803214000021 deserves to be deleted as the account is not in the name of assessee.

13.1 The addition of cash deposits in A/c No. 4803214000023 are admitted by the Assessing Officer to be out of cash sales and Id. AR has demonstrated before us that in fact deposits during the demonetization period was merely around Rs.5,00,000/-. The cash deposits being duly reflected in the cash sales if allowed to be added would result in double taxation.

13.2 As with regard to rejection of books of account and net profit assumption of the relevant evidence of books of account and branch ledgers

were available with Assessing Officer and not a single discrepancy or deficiency having pointed out so as to justify the recourse of rejection of books of accounts and gave revenue an opportunity for estimation based assessment of income.

13.3 Pertinent to mention here is that in the succeeding year AY: 2018-19 proceeding u/s 148A of the Act were initiated for cash deposits of Rs.3,56,26,560/- and copy of assessment completed have been filed before us which shows that the cash deposit in the bank account have been accepted as business receipt and the return of income has been accepted that justifies the contention of the assessee that nature of the business of the assessee involves cash sale model and further verification of any of the facts other than those considered at the time of remand report is unnecessary.

14. Thus, we are of the considered view that in the facts and circumstances the remand report of the Assessing Officer was sufficient to benefit the Assessing Officer and there was no question of fresh assessment after re-verification. Consequently, we are of the considered view that grounds raised by the assessee deserves to be sustained. The **appeal is allowed** and the impugned order of Ld. CIT(A) deserves to be quashed and sequel to same the

impugned assessment order is also quashed. The impugned additions are deleted.

Order pronounced in the open court on 09.01.2026

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 09.01.2026
Rohit, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI