

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'B': NEW DELHI**

BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER

AND

SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.5070/Del/2024
[Assessment Year: 2017-18]

Addl. CIT Special Range Ghaziabad	Vs.	Ghaziabad Ship Breakers Pvt. Ltd. B/201-202, Leela Efcee NR Aksharwadi, Waghawadi Road, Bhavnagar PAN No.AAACG8310L
Appellant		Respondent

Revenue by	Sh. Rajesh Kumar Dhanesta, Sr. DR
Assessee by	Shri Raman K. R. Goyal, AR Ms. Shilpi Goyal, Advocate

Date of Hearing	25.11.2025
Date of Pronouncement	14.01.2026

ORDER

PER C.N. PRASAD, JM,

These appeals are filed by the revenue against the order of the Ld. Commissioner of Income Tax (Appeals)/ NFAC, Delhi vide order dated 05.09.2024 for the A.Y. 2017-18.

2. The revenue has raised following ground :-

1. *On facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by Assessing Officer to the tune of Rs. 1,32,90,625/ made on account of*

unexplained cash sales u/s 68 of the Income Tax Act without considering the facts that the assessee declared this cash sales mainly during the month of October, 2016 just prior to demonetization which is not in trend with any other assessment years. Rs. 14090528

2. On facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by Assessing Officer 2 to the tune of Rs. 59,06,664/- on account of under valuation of closing stock for which complete working/computation of the value of closing stock has been given in assessment order

3. On facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by Assessing Officer 3 to the tune of Rs. 24,21,489/ on account of unexplained expenditure u/s 69C of the IT Act, 1961 without considering the facts elaborated in the assessment order.

4. That the appellant craves 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. The Ld. DR strongly supported the orders of the AO and also furnished submissions forwarded by the AO.

4. On the other hand the Ld. Counsel for the assessee strongly placed reliance on the order of the Ld. CIT(A).

5. Heard rival submissions, perused the orders of the authorities below and the submission placed before us. In so far as the ground No.1 of appeal of revenue i.e. unexplained cash deposits i.e., addition on account of unexplained cash sales is concerned, we find that the Ld. CIT(A) considering

additional evidences filed by the assessee and the remand report of the AO deleted the addition observing as under :-

“5.1.1 Ground of appeal No. 4 is against the addition made u/s 68 of Rs. 1.32.50.000 being cash deposit in bank during demonetization purportedly out of cash sales made in the month of October. Ground of appeal No. 6 and 9 also provision of Section 68 of the Act rejecting the appellant's explanations and assail, among others, the A.O's findings in this regard and his action in invoking the submissions.

5.1.2 In the course of scrutiny proceedings it was observed that the appellant had made substantial cash deposits in bank in the month of November 2016. The appellant was asked to justify the same, and to submit complete monthly cash book. details of Sale, Purchase, Stock, Consumption, Cash Deposit & Cash Withdrawal made in the previous year's relevant to AY 2016-17 AY 2017-18 AY 2018-19. respectively along with copy of Bank statements. The appellant submitted the details & documents & comparative data for the above referred three years, as also Sale Book with narration, Party wise details of sales made in October. November & December 2016 giving Name. PAN. Address of the parties to establish identity & genuineness of the parties along with details of cash transaction comparison for the above three years.

5.1.3 On perusal of various data as submitted the A.O observed certain peculiar features in the data:

1. That the cash sales had increased by 2164,39% in comparison to AY 2016-17 and cash sales from the period 01.04.2015 to 08.11.2015 as compared to the period 01.04.2016 to 08.11.2016, had also increased substantially by 6345.72%. The explanation given by the appellant that the cash was generated from breaking of new ship that started in the month of October 2016 and in view of the nature of business, was not found tenable by the A.O who noted that there has not been any change in business activity of the appellant as culled from the details submitted by it, as it had also purchased ship of 19,00.38 MT in FY 2015-16 & ship of 23,017.10MT in FY 2017-18 but the scale, ratios & movement of cash was hugely

disproportionate in current FY 2016-17 as compared to above stated earlier two years.

ii. From the other data relating to sales in October as submitted by the appellant, the A.O noted that all sales shown in October was cash sales of Non-Excisable material, whereas no similar sale was found to have been made in FY 2015-16 or FY 2017-18. and the same was generated first time in month of October 2016 only and in the current year under consideration, prior to 05/10/2016 & after 28/10/2016, no sale of such type had taken place in cash.

iii. All the sales shown in cash were for amount between 1,10,000 & 1,95,000/ and for quantity for less than 1.9MT in all cases:

iv. All the parties which came in short span of time to the appellant purchased only below 1.9MT quantity of the material which the A.O found highly improbable in routine and regular course of business.

v. On analyzing Purchase & Sale data it was observed that in FY 2015-16, 2016-17, 2017-18 the PMT rates of material were between 20,000 to 31,000/- for either purchase, sales, closing stock but on analysis of the bills as produced by the appellant in support of cash sale, it was observed that all rates of material are between 70,000/- PMT to 1,35,000/- PMT which was earned only in 1 out of 3 years and only in 1 out of 36 month period that too before the month of demonetization.

vi. All the amounts of non-excisable cash sales in October were in round figures& rounded off to nearest Rs.500/-which was found highly improbable in view of the nature of business of the appellant. According to the A.O this clearly indicated that the same has been done solely to show receipts in higher denominations to justify the cash deposit made during demonetization period.

vii. The bills contained only name of person(customer) along with incomplete address without details for establishing identity of the parties or verifying the same such as TIN, PAN, Complete address etc. The appellant was unable to make any verification of the parties.

viii. Despite having substantial cash from sales activities as contended, the A.O noted that the appellant had made cash withdrawal from bank on 14.10.2016 for RS.3,70,000/- which cast a serious doubt as to need of withdrawal from the bank when the appellant was having cash with it and also having continuous cash sales:

ix. Out of total cash sale, amount deposited in bank during the year was for Rs. 1,50,50,000/- & in month of November was for Rs. 1,32,50,000/- while in FY 2015 16 no cash was deposited in the Bank & in FY 2017-18 total cash was deposited in bank for Rs. 12,00,000/- only. This led the A.O to conclude that the cash was deposited for the first time in AY 2017-18 and to justify the undisclosed cash, the same had been camouflaged as cash sales.x. The A.O further noted that the appellant's payment of paid VAT for Rs.6.32,886/- to the VAT authorities does not make any transaction genuine or legal.

5.1.4 After perusal of documents & details submitted by the appellant and analyzing the data culled out as above, the A.O was of the view that the appellant had shown bogus & unexplained cash receipt credited to books of accounts for Rs.1,32,90,625/-made in the month of October as cash sales from Non-excisable material. He concluded that the appellant had failed to discharge even the primary onus cast on it to prove genuineness of the transaction & the parties beyond any doubt and the explanations as given were not found satisfactory & identity of the parties has not been established & assessee has failed to establish the source of cash shown as sales in books of accounts, and the thorough analysis of cash data, the sale data for three financial year showed that amount of Rs.1,32,90,625/- was un-explained cash credit shown as bogus cash sales, and amount deposited in bank during demonetization remained un-explained. Accordingly, as per the provisions of section 68 of the income tax act, the cash sales shown for Rs.1,32,90,625/- was added to total income of the appellant.

5.1.5 Having duly considered the facts on record, the AO's remand report and the appellant's submissions it is noted that the A.O did not accept the appellant's explanation that the source of cash deposits of Rs. 1,32,90,625/-during November was from sale of non-excisable goods from ship breaking activity, and

treated the same as bogus sales and added the same u/s 68 based on the observations as discussed above. The appellant has contended that it has submitted all the evidence to prove the genuineness of the sources. However, the A.O has doubted the appellant's explanation on the basis of comparative / statistical analysis i.e. the drastic increase in percentage of cash sales in the current A.Y as compared to preceding A.Y, the fact of non-excisable good sales in the present year and that too only in October, the quantum of and rate of the sales so undertaken which were observed to be at variance with the trends in preceding and succeeding A.Ys and the lack of means to verify the purchasing parties as per sale invoices without complete address TIN/PAN etc.

While duly appreciating the comparative analysis done by the A.O on the data of preceding A.Ys vis a vis current A.Y that has led to the above discussed conclusions, it must be noted that the material evidence needs to be evaluated first, i.e the primary data and facts need to take precedence over statistical analysis. Seen this context, it is noted first of all that the appellant has maintained audited books of accounts and submitted cash books, sales details. Invoices, vouchers etc as called for. There are no apparent lacunae in providing the information called for by the A.O. The appellant had submitted that the increase in sale in October was because of cutting of ship in the month of October, 2016. It is noted from the evidence on record that the appellant had purchased a ship "MV Rio" during the year and permission for cutting/recycling was accorded by Gujarat Maritime Board vide letter dated 31.08.2016 signed by the Port officer, Ship Recycling yard, Alang. The cash sales of non-excisable goods from ship cutting for the month of October are duly supported by invoices and entries in the appellant's cash book. The appellant has paid VAT on these sales, which, though not by itself a certificate for genuineness but in the general context, can be accepted as lending credibility to the contention that these are genuine sales. The clinching evidence in the appellant's favour, however is that the appellant had sent details of monthly sales to excise authorities and fortnightly to Bank authorities prior to the time of announcement of dernonetization on 08.11.2016. This is supported by copy of the statement of non-excisable items which is seen to have been signed with

acknowledgement of Superintendent of Excise on 8.11.2016. On remand of this evidence to the A.O, no defects have been pointed out nor the veracity of the same doubted. Thus it is taken that this fact is not challenged or disputed by the A.O. This evidence would in my opinion, logically and successfully rule out any inference that there was any tampering with the books post demonetization to accommodate cash generated out of the books. While it is noted that there are indeed certain unusual patterns in the flow of cash during this period, it is also to be noted that the appellant has submitted evidence to prove that it had undertaken ship breaking during the month of October, that the sales were duly supported by invoices and VAT payment, and details of the same were submitted to Excise monthly and Bank authorities including in the period prior to demonetization. The appellant has also made a valid point that the business is exclusive for each A.Y. because the ship in each year is different in size, quality, quantity, period of purchase etc. Thus, the peculiar nature of the ship breaking industry also needs to be taken into consideration to account for the pattern and nature of transactions. The appellant also contended that the AO has ignored that the ship breaking industry is subjected to the levy of excise duty, complete quantitative records are maintained in the registers prescribed under the Central Excise Law, which again is a relevant factor in assessing the evidence available in the appellant case.

5.1.6 Taking all these factors into consideration, in my opinion, the evidence does not support the A.O's conclusion that the cash sales of Rs.13290625 made in the month of October were bogus. Rather, all the primary evidence support the appellant's contentions, and statistical analysis of the data for two or even three A.Ys cannot be the basis for making a conclusion that goes against the factual data. There is no real evidence brought an record to counter the primary evidence relied on by the appellant or to establish that the sales are bogus. Accordingly, the addition so made u/s 68 is found to be unsustainable and is hence deleted, and the appellant's grounds are allowed.”

6. On careful perusal of the findings of the Ld. CIT(A) we do not see any valid reason to interfere with the findings of the Ld. CIT(A) which is a well reasoned order and on

appreciation of facts and evidences on record. Thus, ground no.1 is rejected.

7. Coming to ground No.2 of grounds of appeal which is in respect of addition made on account under valuation of closing stock and disallowance made on account of unexplained expenditure we find that the Ld. CIT(A) deleted the said addition/ disallowance by observing as under :-

“5.2.1 In the assessment order u/s 143(3), the A.O had worked out and added an amount of Rs.59,06,664/- to the total value of closing stock on account of under-valuation of stock on the premise that material shown as sale was actually not sold and the expenses had not been allocated at all to the value of closing stock. In view of the decision taken on preceding grounds as discussed above, this addition is found to be unwarranted and is deleted.

5.2.2 Further the A.O had made disallowance of "unexplained expenditure incurred in cash to decrease the profit declared" which was worked out at Rs. 24,21,489/- on the basis of an intricate exercise in statistical analysis and comparison with preceding A.Ys data of cash payments made and GP rate, dismissing the data in the audited books, bank statements and other evidence produced by the appellant. However, as this addition is also based on the presumption that the cash sales of Rs. 13290625/-was bogus, which has been adjudicated otherwise, this addition stands deleted. Accordingly the appellant's grounds relating to the above issues are allowed.”

8. The findings rendered by the Ld. CIT(A) is based on the evidences and the submissions of the assessee and we see no infirmity in deleting the addition/ disallowance made. The findings were not controverted. Ground No.2 and 3 are rejected.

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

Order pronounced in the open court on 14.01.2026.

Sd/-

[M. BALAGANESH]

ACCOUNTANT MEMBER

Dated: 14.01.2026

*M.B.A., In.P.O.**

Copy forwarded to:

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

Sd/-

[C.N. PRASAD]

JUDICIAL MEMBER

Asst. Registrar,
ITAT, New Delhi