

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.4776/DEL/2025  
Assessment Year 2017-18

Mr. Ramesh Kumar, D-48, Gopal Nagar Extn. Najafgarh, South West Delhi: 1100 43 <b>PAN No. BLNPK6776L</b>	Vs.	Income Tax Officer, Ward 43(2), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by:	Shri Kishan Kumar Gupta, CA
Department by:	Shri Om Prakash, Sr. DR
Date of Hearing:	06.11.2025
Date of pronouncement:	14.01.2026

**ORDER**

**PER VIMAL KUMAR, JUDICIAL MEMBER:**

The appeal filed by the assessee is against order dated 08.07.2025 of Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)] under Section 250 of the Income-Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of assessment order dated 27.12.2019 of Learned Assessing Officer/Income Tax Officer, Ward 43(2), Delhi (hereinafter

referred to as "Ld. AO") passed under section 143(3) of the Act for assessment year 2017-18.

2. Brief facts of the case are that the assessee filed return of income on 28.04.2017 declaring total income of Rs.2,93,120/-. The case was selected for scrutiny through CASS with the limited reasons "Cash deposits during the year". Statutory notices under Sections 143(2) & 142(1) were issued and served upon the assessee. In response thereto, the assessee filed detail/documents online. The assessee has shown the business of Retailer [0202] of Mother Dairy as well as Profession [0607] Mother Dairy. The assessee has shown the gross turnover of Rs.24,45,743/- on which he has computed the profits @8% under Section 44AD of the Act on presumptive basis, wherein the assessee is not required to maintain any proper of books of accounts. The assessee was issued notice under Section 143(2) on 11.08.2018 fixing the date of hearing on 21.08.2018. This notice was served on the e-mail provided by the assessee on 06.09.2018. Notice under Section 142(1) of the Act on 14.09.2019, 22.10.2019 and wherein he was asked to file the requisite details were issued. All these notices were e-served upon the assessee on 14.09.2019 and 22.10.2019. However, the

assessee did not file any details. On completion of proceedings, Ld. AO vide order dated 27.12.2019 made additions of Rs.1,61,16,932/- and Rs.1,50,000/-.

3. Against order dated 27.12.2019 of Ld. AO, the appellant/assessee filed appeal before Ld. CIT(A) which was dismissed vide order dated 08.07.2015.

4. Being aggrieved, appellant/assessee preferred present appeal on following grounds:

“1. That on the fact and circumstances of the case, the Ld. NFAC has been erred in law and on fact, on or after sustaining or confirming the entire addition of Rs.1,61,16,932/- towards the deposited cash into bank account, made u/s 69A of the income tax act, 1961 by respondent being Ld. Income tax officer, ward 43(2) delhi, since the appellant was not the actual owner of entire deposited cash into bank account and such record of deposited cash was duly maintained by mother dairy fruit & vegetable private limited, which is apparent from available records or documents of mother dairy available at the time of appellate proceeding for the relevant assessment year 2017-18.

2. That on the fact and circumstances of the case, the further confirmed addition of Rs.1,50,000/-, in respect of deduction claimed under chapter-VIA, made by the Ld. NFAC is bad in law due to information for examination was outside of preview or scope of materials to be gathered for inquiry or further inquiry purpose contemplated in notice issued under section 143(2) of the income tax act, 1961 dated 11.08.2018 or the information about the deduction claimed under chapter-VIA was never inquired in further notices issued u/s 142(1) of the income tax act, 1961 for A.Y.2017-18.

3. That the Ld. NFAC has been erred in law and on fact, after upheld or sustained the whole addition of Rs.1,62,66,932/- made in the passed assessment order u/s 143(3) of the income tax act, 1961, since the entire assessment proceeding completed u/s 143(3), in lieu of section 144 was invalid in nature against the assessee for the relevant assessment year 2017-18.

4. That the Ld. NFAC has been erred in law and on fact, after upheld the erroneous deemed invalid assessment order passed u/s 143(3) of the income tax act, 1961, otherwise than assessment order must be made u/s 144 of the income tax act, 1961, dated 27.12.2019 against the appellant for A.Y.2017-18.

5. That the Ld. NFAC has been erred on law and on his fact, after ignoring the fact about the notices of assessment proceeding remained un-served or un-delivered to appellant, which might be vitiate or invalid the entire assessment proceeding passed u/s 143(3) of the income tax act, 1961 for A.Y.2017-18.

6. That the Ld. NFAC has been erred on law and on his fact, after refused or denied to admit additional evidences and explanation submitted by the appellant alleged behind the reason of bar of rule 46A of the income tax rules, 1962.

7. That the Ld. NFAC has been erred on law and on his fact, since after failure on the part of consideration of materials and facts submitted or produced by the appellant during the course of appellate proceeding for the concerned assessment year,2017-18.

8. That the Ld. NFAC has been erred on law and on his fact on denial or refusal to admit additional evidences, after being failure on the part of Ld. Income tax officer, ward 43(2) Delhi to produce any cogent evidences or corroborative documents any witness in rebuttal of the additional evidence produced by the appellant before him, during the course of appellate proceeding for A.Y.2017-18.

9. That the Ld. NFAC has been erred on law and on his fact, after not carefully perused or not contemplated on the genuineness and relevancy of documents substantial for

deletion of additions of Rs.1,61,16,932/- made by the Ld. Income Tax Officer under Section 69A of the Act on account of cash deposited in the bank account of the appellant, since the entire cash deposited had ultimate end proceed with the mother dairy fruit & vegetable private limited only during the relevant assessment year 2017-18.

10. That the appellant craves mercy to add or amend any grounds of appeal before or during the time of appeal proceeding.”

5. Learned Authorised Representative for the appellant/assessee submitted that Ld. CIT(A) erred in refusing to admit the additional evidence i.e. details of bank statements with narrations, authorization/Agencies Letter from Mother Dairy, Mother Dairy ledger (sales and commission), summary excel sheet (deposits, transfers and commission) and Pension Statements of the appellant. The details were forwarded to the Ld. AO and the remand report was called for. The grounds of appeal were rejected by Ld. CIT(A) by observing that Ld. AO had provided opportunity to the assessee to substantiate documentary evidence in the application under Section 46A of the Income Tax Rules, 1962. However, assessee failed to reply the matter. So, the matter may be restored to the file of the Ld. AO.

6. Learned Departmental Representative had no objection.

7. From examination of record in light of above stated rival contentions, it is evident that the appellant/assessee could not

file complete details which led to passing of ex parte order dated 27.12.2019. Ld. CIT(A) refused to admit additional evidence and the explanation submitted by the assessee regarding reasons of Rule 46A of the Income Tax Rules, 1962. In view of above material facts in interest of justice, impugned orders dated 08.07.2025 of Ld. CIT(A) and dated 27.12.2019 of Ld. AO are set aside and the matter is restored to the file of Ld. AO for passing of fresh order in accordance with law after affording fair opportunity of hearing to the appellant/assessee.

8. In the result, the appeal of filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 14<sup>th</sup> January, 2026.**

Sd/-

**(S RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Sd/-

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

**Dated: 14/01/2026**  
***Mohan Lal***

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi