

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'SMC' CHANDIGARH

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1334/CHD/2025

निर्धारण वर्ष / Assessment Year : 2017-18

Shri Ghamanda Ram, Village & P.O. Kunnu, Tehsil – Padhar, Distt. Mandi (HP).	Vs	The ITO, Ward Mandi (HP).
स्थायी लेखा सं./PAN NO: AOOPR9300J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Atul Goyal, CA

Revenue by : Shri Vivek Vardhan, Addl. CIT Sr. DR

Date of Hearing : 15.01.2026

Date of Pronouncement : 16.01.2026

PHYSICAL HEARING

ORDER

PER RAJPAL YADAV, VP

The assessee is in appeal against the order of the ld. Commissioner of Income Tax (Appeals) in short 'the CIT (A)' dated 22.08.2025 passed for assessment year 2017-18.

2. The ld. counsel for the assessee seeks an adjournment, however, after going through the record, we are not inclined

to adjourn the hearing and with the assistance of ld. DR, we have gone through the record and heard the appeal on merit.

3. Though the assessee has taken 8 grounds of appeal, but his solitary grievance is that ld.CIT (Appeals) has erred in confirming the addition of Rs.15,35,900/- which was added by the AO u/s 68 of the Act on account of unexplained cash credit.

4. With the assistance of ld. DR, we have gone through the record carefully. It emerges out from the record that assessee has filed his return of income on 28.10.2017 declaring total income of Rs.1,76,750/-. Thereafter the assessment of the assessee was reopened by issuance of a notice u/s 148 on 28.03.2021. The AO was of the opinion that assessee has deposited cash which required to be examined. In response to notice u/s 148, assessee has filed fresh return of income. The AO has observed that in the original return, assessee has shown turnover at Rs.7,65,300/-, however, in the return filed u/s 148, this turnover has been shown at Rs.25,90,627/-. The assessee, at the relevant time was engaged in trading of clothes under the name and style of M/s Jalpa Cloth House.

He has offered his income u/s 44AD of the Act. In other words, assessee has offered his income under presumptive taxation on the gross turnover. The AO, instead of assessing the income of the assessee under Section 44AD observed that there is a difference in the turnover reported by the assessee in the regular return vis-à-vis return filed u/s 148. This difference was of Rs.18,25,327/-. Hence, he treated a sum of Rs.15,35,900/- as unexplained cash credit.

5. On due consideration of the above facts, we are of the view that once it has been accepted by the AO that assessee is trading in clothes, his return is to be accepted in Presumptive Taxation Scheme u/s 44AD. Then out of the turnover, he cannot treat part of deposits as cash credit. The assessee is not supposed to maintain books of account. He has to declare the turnover and then apply the profit rate applicable on that turnover u/s 44AD of the Act. Therefore, the steps taken by the AO are contrary to law. Accordingly, we set aside both the orders. The addition confirmed at Rs.15,35,900/- is deleted. However, the AO will re-calculate the taxable income of the assessee by applying a profit rate on

the gross turnover shown by the assessee in the return filed u/s 148. In other words, the rate of profit available u/s 44AD is to be applied on the sum of Rs.25,19,627/- instead of the turnover of Rs.7,65,300/- disclosed in the original return of income. The ld. AO shall recompute the income according to the above observation.

6. In the result, appeal of the assessee is allowed.

Order pronounced on 16.01.2026.

Sd/

-Sd/-

**(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

**(RAJPAL YADAV)
VICE PRESIDENT**

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar