आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.:2560/Chny/2025**
निर्धारण वर्ष / **Assessment Year: 2017-18**

Krishnamurthy Pandy, 25, KPR Traders, Perumal Kovil Street, Adirampattinam, Pattukottai, Thanjavur – 614 701.	vs.	**ITO,** Ward -1, Thanjavur.
[PAN: BUOPP-1107-L] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. R. Santhanu, C.A.
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, J.C.I.T.

सुनवाई की तारीख/Date of Hearing : 08.12.2025
घोषणा की तारीख/Date of Pronouncement : 14.01.2026

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM :

The present appeal is filed by the assessee against the order dated 22.07.2025 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "ld.CIT(A)"), dismissing the appeal filed by the assessee against the assessment order dated 21.12.2019 passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as the "Act"), pertaining to Assessment Year (A.Y.) 2017-18.

2. The assessee is an individual and has filed his return of income on 07.10.2017 wherein a sum of Rs.5,24,870/- was admitted as income. Subsequently, the assessee's case was selected for limited scrutiny to verify the cash deposits made during the year. Thereafter, a notice u/s.143(2) of the Act was issued on 09.08.2018, asking the assessee to furnish details in support of the return filed. The AO, issued a notice u/s.133(6) of the Act to the assessee's banker asking for denomination details of the cash deposited during the demonetization period, which the bank had submitted. The AO issued a notice u/s.142(1) of the Act dated 05.09.2019 calling for information regarding the cash deposits made during the year. However, the assessee failed to respond to the said notices. Thereafter, the AO passed the assessment order u/s.143(3) of the Act on 21.12.2019 wherein deposits made during the period on and from 09.11.2016, amounting to Rs.22,03,500/- was added u/s.69A of the Act. Thereby, the AO assessed total income at Rs.27,28,370/- and a demand of Rs.22,64,364/- was raised.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the ld.CIT(A) on various grounds. The ld.CIT(A) vide order dated 22.07.2025 upheld the addition u/s.69A of the Act to the tune of Rs.22,03,500/- stating that the assessee has not substantiated the cash deposits with relevant documentary evidence and also stated that amendment to increase tax rate to 60% u/s.115BBE of the Act would apply for the year under consideration since it would come into effect from 01.04.2017.

4. Aggrieved by the above order of the ld.CIT(A), the assessee has preferred the present appeal.

5. The assessee is an FMCG distributor supplying to petty kirana stores in tier II towns having turnover of Rs.3.13 crore. During the period between 09.11.2016 to 30.12.2016, total deposits stood at Rs.38,19,900/- was made. From the said total deposit, SBN deposits amounts to Rs.26,44,500/- which

includes the opening balance in hand of Rs.4,41,000/-. The AO passed the assessment order u/s.143(3) of the Act dated 21.12.2019, adding a sum of Rs.22,03,500/-, after deducting the opening balance in hand, on the ground that the assessee accepted SBN after 08.11.2016 which is in contravention of notification dated 10.03.2016. During the appellate proceedings, the assessee had filed audited financial statements along with VAT records for the impugned Assessment Year. The assessee explained that the sums deposited were the sales made by him and relied upon the *Instruction No.3/2017 [F.NO.225/100/2017/ITA-II]* and submitted that the addition made is erroneous, since cash deposited out of sales made cannot be treated as unexplained money u/s.69A of the Act. However, the action of the Assessing Officer was upheld by the ld.CIT(A) on the grounds that the assessee failed to:

a) Furnish cash books in support of the cash deposits made.
b) Provide any documentary evidence to prove that the source of the cash deposits is from the cash sales, advances from customers against sales and opening cash balance.
c) Report the details of the cash deposits made during the demonetization period in the ITR-3 filed by the appellant on 07.10.2017.

6. Aggrieved by the order of ld.CIT(A), the assessee is in appeal before us. Before us, the ld.Counsel for the assessee submitted the bank statement, audited financial statements and VAT records, while highlighting para 6 of *Instruction No.3/2017 [F.NO.225/100/2017/ITA-II],* which directs Assessing Officer to verify whether *"cash transaction or its quantum are in line with normal practices of concerned business as mentioned in earlier return of income"*. The instruction also included some indicators, such as "*abnormal increase in cash sales, or percentage of cash sales to unidentifiable persons*", etc.., that can be used for the purpose of verification. Relying on this instruction, the assessee submitted that there was no abnormal jump in sales for November and December, 2016 compared to previous months. Further, it was submitted that the authorities below did not bring out any allegation of bogus sale and failed to

consider statutory records which stands in favour of the assessee. The ld.counsel for assessee relied on the decision of coordinate bench of this Tribunal in **Tamil Nadu State Marketing Corporation Ltd. V. ACIT [ITA No.431/Chny/2023].** The ld.counsel for the assessee also contended the validity of tax rate applied u/s.115BBE of the Act and submitted that for the impugned Assessment Year 2017-18, the tax rate is 30% since the amendment increasing the tax rate to 60% came into effect on 01.04.2017 which is applicable from Assessment Year 2018-17 and relied on the decision of Hon'ble Jurisdicational High Court, Madras in **SMILE Microfinance Ltd. V. ACIT (2025) 479 ITR 172 (Mad.)** which held this amendment to be prospective. It was thus prayed that the addition made u/s.69A of the Act to be deleted.

7. The ld.counsel for assessee filed a paperbook with the comparative data to prove the business consistency and that there was no abnormal spike I sales during the relevant period. It is reproduced as under:

Period	AY 2016-17	AY 2017-18
Total Annual Cash Deposit	Rs.3,21,54,328/-	Rs.3,22,76,370/-
Demonetisation – Period Deposits	Rs.35,89,850/-	Rs.38,19,900/-
YoY Variation	0.4% overall	6% for Demonetisation period

8. The VAT return was also submitted by the ld.counsel for assessee. It was given that the total turnover (VAT) is Rs.3,13,90,490/- and that total bank deposits (cash + NEFT + cheques) is Rs.3,45,73,249/-. A table showing monthly sales as per VAT was also submitted. As far as the addition is concerned, the VAT for November and December is as follows:

Period	Total Turnover	VAT on sales	Total Invoice Value	Amount Deposited in bank (including NEFT & Cheque clearance)
Nov-16	29,66,232	2,73,872	32,40,104	26,44,483
Dec-16	20,79,790	2,08,709	22,88,499	27,42,711

9. Per contra, the ld.DR reiterated the findings of the first appellate authority and filed her written submissions. Apart from it, the ld.DR also argued that Section 69A of the Act is invocable in the case of assessee since the word "money" refers to Indian Currency, whether it is the legal tender or not. It was contended by the ld.DR that the assesee was in possession of Rs.22,03,500/- which was deposited in his bank account and therefore, he is the owner as per Section 69A of the Act while placing reliance on the decision of this coordinate bench in **Vidhiyasekaran Pradeep Malliraj V. ITO [ITA No.698/Chny/2022]**.

10. We have carefully considered the rival submissions, perused the material on record and gone through the orders of the authorities along with the judicial precedents cited. The admitted facts are that the assessee, as a FMCG distributor supplying to petty kirana stores, had deposited a sum of Rs.26,44,500/- which are SBNs. This deposit also includes opening balance in hand of Rs.4,41,000/-. The addition made u/s.69A of the Act, after deducting the opening balance is Rs.22,03,500/-. The question arising here is whether SBNs deposited by the assessee which were sourced from sale, advance against sales, is to be assessed u/s.69A of the Act or not. It is to be seen that the statutory record, i.e., VAT returns that were filed by the assessee substantiates the fact that sales were indeed made by the assessee. The Revenue did not bring out any material to state that the cash deposited in the bank account was not from sales; there is no finding that the source for the cash deposits is unexplained. In such a case, the source for the cash deposited stands explained.

11. In order to invoke section 69A of the Act, the source for the cash deposit must be unexplained and also it must not be recorded in the books of account. In the present case, the source stands proved from the statutory record, i.e.VAT returns that sales were indeed made and that the sales are also recorded in the books of accounts of the assessee. Therefore, in our view, invoking section 69A of the Act in such a scenario is not right.

12. Further we note that the AO has made the impugned addition for the reason that the cash deposit have been made out of collection of SBNs after the announcement of demonetisation on 08.11.2016 in contravention of the RBI guidelines. In this regard, reliance placed by the ld.AR on the decision of the coordinate bench of this tribunal in **Tamil Nadu State Marketing Corporation Ltd. V. ACIT [ITA No.431/Chny/2023]** which is held in favor of the assessee considering the fact that the receiving of SBNs in relation to the business transactions is not invalid upto 30.12.2016 in light of the Specified Bank Notes (Cessation of Liabilities) Act 2017. The facts of the case are similar to the case in appeal, wherein the assessee, that is the Tamil Nadu State Marketing Corporation Ltd., a Government of Tamil Nadu undertaking engaged in the business of wholesale/retail vending in liquor and has accepted SBNs from its customers in exchange for sale of liquor during the demonetization period. The assessee submitted relevant documents before the Assessing Officer and ld.CIT(A) which was not rejected by the revenue. Relevant portion of the decision is extracted as below:

> *"We have gone through the scheme and noted that the Specified Bank Notes (cessation of liabilities) Ordinance 2016 (subsequently this was passed as an Act), was towards cessation of liability of RBI in respect of SBNs with effect from 31.12.2016. The Government of India vide Gazette of India Notification dated 8.11.2016 notified that the SBNs of Rs.500 and Rs.1,000 notes is not a legal tender w.e.f. 9.11.2016. We noted that even the Revenue admitted that the Government has not declared the SBNs as an illegal tender and even possessing of SBNs was not an offence till 31.12.2016. Between the period from 9.11.2016 to 31.12.2016, all the public, who were holding such SBNs were permitted to exchange such holdings against valid currency notes but the scheme itself does not render the SBN as illegal or declaration does not bar in receiving or paying through the SBNs in the course of business-like other documents i.e., through cheques, promissory notes, Government securities, which are not legal tender can be freely exchanged so can the SBNs. The Ordinance of December 2016 clearly specifies that on or from 31.12.2016, it is illegal for any person to hold, transfer or receive SBNs. This would mean that prior to 31.12.2016 there is no bar on any person holding, transferring or receiving SBNSs prior to 31.12.2016 was not illegal. If a currency is not a legal tender, only the recipient may refuse or cannot force to receive currency which is not legal tender. When both parties to the transaction agrees, there is no prohibition for one party to transfer and the other party to receive SBNs in the course of a legal transactions prior to 31.12.2016. We noted that with the notification of "The Specified Bank Notes*

(Cessation of Liabilities) Act, 2017", even this liability to honour such exchange, transact, transfer or hold SBNs ceased to be operative from 31.12.2016, the appointed date.

In view of the above provisions, as in the present case, once the receipt of SBNs by assessee is not illegal or barred by any legal provisions the receipt of SBNs cannot be put on a different footing for the purpose of Section 68 or Section 69 of the Act from other currency as the source of SBNs are same as the source of other currency. The SBNs though are not legal tender, is of no consequence for determination of source, because the SBNs can be encashed for the face value with the bank without any question being raised. We further noted from the RBI circulars or CBDT circulars that neither the RBI circulars nor any CBDT circulars including any instructions on demonetization requires any person to disclose the source of SBNs. We noted from the facts of the case placed before us that out of total deposits of Rs.2635.35 Crores were in cash for the month of November 2016, which has been accepted as the value of liquor sold for a sum of Rs.2582.56 Crores, hence it can be easy presumed, unless disproved by Revenue, that the balance sum of Rs.52.79 Crores is out of sale of liquor. There is no basis or evidences or examination of any person for reaching a conclusion that this sum of Rs.52.79 Crores received by assessee has been substituted in demonetized currency. We noted from the evidences placed before us that the observation of the AO that branch wise details of deposits made in SBNs was not available is not correct for the reason that the complete details of deposits of SBNs account-wise, branch-wise was submitted before the AO as well as before the CIT and also before us.

We have gone through the notifications issued by the RBI and Government of India, to deal with specified bank notes. The only premise of the Revenue is mainly on the issue of notification issued by the RBI to deal with the specified bank notes and argument is that the assessee is not one of the eligible person to accept or to deal with specified bank notes and thus, even if assessee furnish necessary evidence, the assessee cannot accept specified bank notes after demonetization and the explanation offered by the assessee cannot be accepted. No doubt specified bank notes of Rs. 500 & Rs. 1000 have been withdrawn from circulation from 09.11.2016 onwards. The Government of India and RBI has issued various notifications and SOP to deal with specified bank notes. Further, the RBI allowed certain category of persons to accept and to deal with specified bank notes up to 31.12.2016. Further, the specified bank notes (cessation of liability) Act, 2017, also stated that from the appointed date no person can receive or accept and transact specified bank notes, and appointed date has been stated as 31.12.2016. Therefore, there is no clarity on how to deal with demonetized currency from the date of demonetization and up to 31.12.2016. Therefore, under those circumstances, some persons continued to accept and transact the specified bank notes and deposited into bank accounts. Therefore, merely for the reason that there is a violation of certain notifications/GO issued by the Government in transacting with specified bank notes, the genuine explanation offered by the assessee towards source for cash deposit cannot be rejected, unless the AO makes out a case that the assessee has deposited unaccounted cash into bank account in specified bank notes.

We further noted that the Central Board of Direct Taxes had issued a circular for the guidance of the Revenue Officer to verify cash deposits during demonetization period in various categories of explanation offered by the assessee and as per the circular of the CBDT, examination of business cases, very important points needs to be considered is analysis of bank accounts, analysis of cash receipts and analysis of stock registers. From the circular issued by the CBDT, it is very clear that, in a case where cash deposit found in business cases, the AO needs to verify the explanation offered by the assessee with regard to realization of debtors where said debtors were outstanding in the previous year or credited during the year etc. Therefore, from the circular issued by the CBDT, it is very clear that, while making additions towards cash deposits in demonetized currency, the AO needs to analyze the business model of the assessee, its books of account and analysis of sales etc. In this case, if we go by analysis furnished by the assessee in respect of total sales, cash sales including the cash received in demonetized currency and cash deposits, there is negligible amount in demonetized currency. Therefore, we are of the considered view that when there is no significant change in cash deposits during demonetization period, then merely for the reason that the assessee has accepted specified bank notes in violation of circular/notification issued by Government of India and RBI, the source explained for cash deposits cannot be rejected. Simpliciter violation of certain notification issued by RBI or demonetization scheme announced by Government of India on 08.11.2016 will not entitle the Revenue to make addition u/s.69 or 69A of the Act. Because, the mandate of the provisions of Section 69 & 69A of the Act, i.e., unexplained investments and unexplained money etc., may be deemed to be the income of the assessee for the financial year relevant to assessment year concerned, in which the assessee is found to be the owner of such money, bullion, jewellery or valuable article or unexplained expenditure, if, the such expenditure or such money etc., are not recorded in the books of accounts, if any, maintained by assessee for any source of income and the assessee offers no explanation about the nature and source of such expenditure or acquisition of such money, etc., or the explanation offered by him, in the opinion of AO is not satisfactory. For violation of any RBI notification, etc., can have any civil or criminal liability and can be dealt with under any other provision of law by the concerned authority but for the purpose of bringing the amount under Income-tax, the provisions are very clear i.e., 69 & 69A of the Act. In our considered view, to bring any amount u/s. 69 or 69A of the Act, the nature and source of investment, needs to be examined. In case the assessee explains the nature and source of investment, then the question of making addition towards unexplained investment u/s. 69 of the Act does not arise. In this case, the source of deposits has not been disputed and has been created out of ordinary business sales which has been credited into books of accounts and profits has also been duly included in the return of income filed in relevant assessment year. Therefore, we are of the considered view that, additions cannot be made u/s. 69 of the Act and taxed u/s. 115BBE of the Act towards cash deposits made to bank account of demonetized cash in SBNs.

In the result, the appeal filed by the assessee stands allowed."

13. We find that in the present case, the aforementioned decision would apply and therefore, we hold that the addition made by AO on account of SBNs deposited in the bank account, u/s.69A of the Act to be erroneous and direct the Assessing Officer to delete the addition by setting aside the order of the ld.CIT(A) by allowing the corresponding grounds raised by the assessee.

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

Order pronounced in the open court on 14th January, 2026 at Chennai.

Sd/-	**Sd/-**
(एबी टी वर्की)	(एस. आर. रघुनाथा)
(ABY T VARKEY)	**(S. R. RAGHUNATHA)**
न्यायिक सदस्य/Judicial Member	लेखा सदस्य/Accountant Member

चेन्नई/Chennai,
दिनांक/Dated, the 14th January, 2026
SP
आदेश की प्रतिलिपि अग्रेषित/Copy to:
1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF