

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCHES 'DB': DEHRADUN.**

**BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.97/DDN/2024
(Assessment Year: 2017-18)**

ACIT,
Dehradun.

vs.

Ravi Lumba,
J – 5/9, Rajouri Garden,
Delhi – 110 001.

(PAN : AEZPL9904P)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Kanwar K. Juneja, Advocate
REVENUE BY : Shri A.S. Rana, Sr. DR

Date of Hearing : 11.11.2025
Date of Order : 23.01.2026

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of the Learned Commissioner of Income-tax (Appeals)-3, Noida ["Ld. CIT(A)", for short] dated 22.04.2024 for the Assessment Year 2017-18 raising following grounds of appeal :-

"1. Whether on facts and circumstances of the case and in law the Ld. CIT (Appeal)-3, Noida has erred in deleting the addition of Rs.79,75,000/-, on the basis of copy of the ledger account of the assessee in M/s. Meridian Buildtech, wherein money has been received on account of sale of flats on various dates and the cash from there has been deposited in the PNB Loan account on various dates. However, the aforementioned ledger account was not filed before the A.O. during the course of assessment proceedings and nor it was provided to the A.O.

during remand proceedings. Thus the A.O. was prevented from examining the additional evidences necessary for proper adjudication of the case and therefore, natural justice has been denied and also rule 46A has not been followed

2. Whether on facts and circumstances of the case and in law, the Ld. CIT(Appeal)-3, Noida has erred in allowing relief of Rs.3,50,000/- & Rs.2,00,000/-

on the basis of capital account of assessee which was not produced by the assessee during assessment proceedings and nor the same was provided to the A.O. during remand proceedings. Thus the A.O. was prevented from examining the additional evidences necessary for proper adjudication of the case and therefore, natural justice has been denied and also rule 46A has not been followed.

3. Whether on facts and circumstances of the case and in law, the Ld. CIT(Appeal)-3, Noida has erred in accepting the gift of Rs. 4 lacs taken by the assessee from his brother which was claimed to be utilized for cash deposits whereas the assessee failed to furnish any documentary evidence in support of aforesaid gift during the course of assessment proceedings and not the documentary evidence in support of said gift was provided to the A.O. during remand proceedings. Thus the A.O. was prevented from examining the additional evidences necessary for proper adjudication of the case and therefore, natural justice has been denied and also rule 46A has not been followed.

4. Whether on facts and circumstances of the case and in law, the Ld. CIT(Appeal)-3, Noida has erred in accepting the additional evidences such as ledger account of M/s Meridian Buildtech wherein money has been received on account of sale of flats on various dates and the cash in hand from there has been deposited in the PNB Loan account on various dates, capital account of brother of assessee, evidence of gift etc. without providing the additional evidences to the A.O. for examination. Thus the A.O. was prevented from examining the additional evidences necessary for proper adjudication of the case and therefore, natural justice has been denied and rule 46A has not been followed.

5. Whether on facts and circumstances of the case and in law, the Ld. CIT(Appeal)-3, Noida has erred in accepting that the seller incurred the cost of stamp at Rs.13,81,250/- on the basis of sale deed, whereas the assessee failed to produce any documentary evidence in respect of source of expenditure of Rs.13,81,250/- on account of payment of stamp duty by seller during assessment proceedings and nor the same were provided during the course of remand proceedings, Thus the A.O. was

prevented from examining the additional evidences necessary for proper adjudication of the case and therefore, natural justice has been denied and also rule 46A has not been followed.”

2. At the time of hearing, ld. DR of the Revenue brought to our notice assessment order which is passed under section 144 of the Income-tax Act, 1961 (for short ‘the Act’), therefore, there was no compliance from the assessee and also he submitted that the issue involved in this case is cash deposit during demonetization period and submitted that all these details were submitted before the ld. CIT (A) and ld. CIT (A) has allowed the same without giving opportunity to the Assessing Officer. He submitted that it is violation of Rule 46A of the Income-tax Rules, 1962 (for short ‘the Rules’). He prayed that the Assessing Officer should be given opportunity to verify the same and prayed that the issue may be set aside to Assessing Officer to verify the relevant information.
3. On the other hand, ld. AR of the assessee submitted that assessment order was passed on 13.12.2019, however assessee has expired on 15.12.2019. Assessee tried to convey the message to the Assessing Officer who has refused to take the reply and further submitted screen shot of ITBA portal wherein assessee has submitted the details on 16.12.2019. He brought to our notice that even though assessment order is dated 13.12.2019 whereas the order was actually passed on 17.12.2019. He submitted that the Assessing Officer has completely overlooked the

submissions made by the assessee before passing of the assessment order. He also brought to our notice that ld. CIT (A) has discussed the details which were submitted before the Assessing Officer. Further he submitted that ld. CIT (A) has remanded the matter to the Assessing Officer relating to additional evidences filed by the assessee. However, he submitted that the Assessing Officer never responded to file the remand report. He objected to the grounds raised by the Revenue that there is a violation of Rule 46A of the Rules. In this case, he submitted that the Assessing Officer chose not to file any remand report. With regard to merits of the issue, ld. AR of the assessee submitted that the AO has accepted the credit side of the audited Profit & Loss Account and Balance Sheet where the turnover and receipts are Rs.3,80,92,939/- and income has been determined at Rs.40,06,744/- which comes to 10.51%. He further submitted that now the department has come in appeal to add back the amount which has been reduced by the ld. CIT(A) after giving three opportunities to the AO who did not reply even once. He submitted that on being satisfied the Ld. CIT(A) has given a relief as under :-

Rs.79,75,000/- deposit of bank loan from the sale proceeds	Rs.79,75,000/-
Rs.9,50,000/- out of cash	Rs. 9,50,000/-
Rs.13,81,250/- stamp duty	Rs. 4,22,750/-
	<u>Rs.93,47,750</u>

4. Ld. AR further submitted that what blunder the AO wanted to seek income to be determined as assessed income Rs.1,39,56,240/- on the

turnover of Rs.3,73,25,000/- plus other Receipts Rs.7,67,939/- = Rs.3,80,92,939/- which works out to Rs.36.6%. He heavily relied on the findings of the Id. CIT (A).

5. Considered the rival submissions and material placed on record. We observed that assessee has recorded sale of Rs.3,73,25,000/- and during the demonetization period, assessee has deposited cash of Rs.79,75,000/- and also Rs.9,50,000/- and further Assessing Officer added Rs.4,22,750/- towards payment of stamp duty. We noticed that after considering the submissions of the assessee in detail, Id. CIT (A) has confirmed cash deposit of Rs.12,54,000/- and stamp duty of Rs.4,22,750/-. With regard to cash deposit, we observed that assessee has total turnover of Rs.3,73,22,750/- and the Id. CIT (A) found that the cash deposit made by the assessee is booked by cash sales. Therefore, assessee has established that there is a direct source of cash sales for making cash deposit during the year under consideration. After considering the submissions, we are inclined to hold that the cash deposits made by the assessee during the year under consideration are from source of cash sales. As far as violation of Rule 46A, we observed that Id. CIT (A) has remanded the matter to the Assessing Officer to verify the additional evidences submitted by the assessee. However, we noticed that even after several reminders, the Assessing Officer has not filed the remand report to

facilitate the ld. CIT (A) to complete the appellate proceedings. Ld. CIT (A) has proceeded to allow the cash deposits made by the assessee during the year based on the evidences submitted by the assessee. Therefore, we do not see any reason to disturb the findings of the ld. CIT (A) and also there is no violation of Rule 46A of the Rules.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on this 23RD day of January, 2026.

**SD/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

**SD/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 23.01.2026
TS**

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**