

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'A': NEW DELHI.**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
and
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.3567/Del/2025
(Assessment Year: 2017-18)**

DCIT, Central Circle 1,
Noida.

vs.

Ms. Radhika Mehra,
(Legal Heir of Late Sapna Mehra),
A-45, Sector 17,
Noida – 201 301 (Uttar Pradesh).

(PAN : ADGPM5380C)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing : 11.11.2025

Date of Order : 23.01.2026

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The Revenue has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)-3, Noida ["Ld. CIT (A)", for short] dated 04.03.2025 for the Assessment Year 2017-18.
2. None appeared on behalf of the assessee. We proceeded to adjudicate the issue with the assistance of ld. DR of the Revenue.

3. At the time of hearing, ld. DR of the Revenue brought to our notice relevant facts on record and submitted that during assessment proceedings, the AO observed that a survey under section 133A of the Income-tax Act, 1961 (for short 'the Act') was conducted on 18.03.2017. During the year under consideration, assessee has declared income and the same was assessed to tax u/s 143(3) of the Act on 29.12.2019.
4. The AO observed that the matter under consideration was set aside by the Pr.CIT, Noida vide order dated 29.12.2019 to redo the assessment after conducting an enquiry on the issue of cash deposit in the bank account and non-verification of purchase and sales. Accordingly, assessee was asked to substantiate the cash deposit of Rs.1,45,00,000/- during demonetization period and source of cash declared by the assessee of cash sales during the same period. The AO observed that assessee has furnished bills of purchase. However, they were not for the period October and November 2016, according to the AO, assessee has failed to furnish confirmations of major parties from whom purchases were made and sales made during demonetization period are questionable. Based on the above observation, the AO proceeded to make the addition u/s 68 read with section 115BBE. Further he observed that assessee has introduced additional capital during the year to the extent of Rs.52.01 lakhs. In

response, assessee submitted that assessee has introduced Rs.50 lakhs as capital. After considering the submissions of the assessee, AO rejected the same and observed that assessee has furnished Form 1 as evidence of declaration made, further he observed that declaration was made on 30.03.2017 and undisclosed income was deposited during the period 24.07.2017 to 29.03.2017 and Form 2 in the form of certificate against the declaration was received by the assessee on 01.05.2017. Since the declaration was made on the last day of the year, he wondered how the capital was introduced for the year against the declaration made. Accordingly, he also made another disallowance of Rs.50 lakhs u/s 68 of the Act.

5. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT(A) and filed detailed submissions before Id. CIT (A) – 3, Noida. Before Id. CIT (A), assessee has submitted the detailed submissions. Ld. CIT (A) called for the remand report. The original submissions, remand report and the response to the remand report of the assessee are placed at pages 6 to 31 of the appellate order.
6. After considering the detailed submissions of the assessee and remand report, Id. CIT (A) deleted the addition by observing as under :-

In this case, the AO has questioned the genuineness of sales made by the assessee concern by considering the cash sales to be unexplained money of the assessee. The AO has treated the cash deposit of Rs. 1,45,00,000/- as unexplained income of the assessee u/s 68.

The AR has contended that the AO has not questioned the genuineness of purchases and other expenses, then how can the sales be questioned. A perusal of the assessment order reveals that the AO has not given any finding to the effect that the purchases, the opening stock and the closing stock of the assessee firm is questionable. The AO has reached the conclusion that the cash sales of the assessee concern are bogus as the cash sales are more in comparison to last year. In case, the AO had any doubts regarding the cash sales being bogus, then genuine efforts should have been made to prove the purchases to be bogus as well. In the present case, no such enquiries have been done.

To provide adequate natural justice to the appellant, during the appeal proceedings, the AR was directed vide hearing dated 03.09.2024 to provide details of parties from whom major purchases have been made. The AR vide reply dated 09.09.2024 submitted the requisite details.

Enquiry u/s 133(6)

Consequent to that, enquiry was initiated u/s 133(6) with the major creditors of the appellant. The replies to the enquiries with the major creditors were received in this office and the results were shared with the Assessing Officer in the interest of

natural justice. An email was sent to the AO dated 25.09.2024 wherein, the results of enquiry were shared with the AO. The said email is reproduced below for ready reference as it also highlights the issue under consideration:

Refer to the subject cited above.

A perusal of the assessment order reveals that assessment has been framed consequent to order of PCIT, Noida u/s 263 of the Income Tax Act, 1961. The PCIT, Noida in the order u/s 263 noted that the AO has not made proper enquiry/verification of the purchases and sales claimed by the appellant. The AO during the assessment proceedings analyzed the month-wise purchase & sale for AY 2016-17 & 2017-18 and came to the conclusion that the cash sales during the demonetization period in AY 2017-18 are high in comparison to earlier years. The AO did not accept the contentions of the appellant and made addition on account of cash deposits to the extent of Rs. 1.45 crores.

The AO has not given any finding to the effect that the purchases, opening stock and the closing stock of the assessee firm is questionable. The AO has reached the conclusion that the sales of the assessee concern are bogus. In case, the AO had any doubts regarding the sales being bogus, then genuine efforts should have been made to prove the purchases to be bogus as well. In the present case, no such enquiries have been done. To examine the genuineness of purchases of the assessee, enquiries were initiated by this office.

Enquiries u/s 133(6)

"To verify the contentions of the AR that the purchases made by the assessee are genuine, enquiries were initiated with the creditors of the assessee concern from whom major purchases were made during the Financial Year 2016-17. Enquiries were made u/s 133(6) with various creditors of the assessee concern for confirmation of purchases made (total 8 in number). The results of the enquiry in 8 cases are tabulated below:

Sr. No.	Name & Address of the Creditor /person from whom purchases were made during FY 2016-17	Result of enquiry
1	HTC Jewellers Pvt. Ltd., 1170, Kucha Mahajani Chandni Chowk, Delhi-110006.	The creditor has confirmed the sales made to the assessee concern.
2.	Jagannath Jewellers, 1167/1094, Shop No. 8, 1 st Floor, Kucha Mahajani, Delhi-110006.	The creditor has confirmed the sales made to the assessee concern.
3.	KD Jewels Pvt. Ltd., 1174, 2 nd Floor, Kucha Mahajani Chandni Chowk, Delhi-110006.	The creditor has confirmed the sales made to the assessee concern.
4.	Laxmi Jewellery Export Pvt. Ltd., Laxmi House, Swagat Cross Road, CG Road, Ellis Bridge, Ahmedabad-380006.	The creditor has confirmed the sales made to the assessee concern.
5.	Pankaj Jewellers, 1185/3, 4, 5, Kucha Mahajani, Chandni Chowk, Delhi-110006.	The creditor has confirmed the sales made to the assessee concern.
6.	P. P Ornaments, 2 nd Brijwasi Complex, Gurahi Bazar, Mathura.	The creditor has confirmed the sales made to the assessee concern.
7.	Radhika Jewellers, 1178, Kucha Mahajani Chandni Chowk, Delhi-110006.	The creditor has confirmed the sales made to the assessee concern.
8.	Rhyming Diamonds, 1829 Gali Chira Khana, Chandni Chowk, Delhi-110006.	The creditor has confirmed the sales made to the assessee concern.

From the above discussion, it is seen that confirmations have been received from all the creditors with whom enquiries were initiated. In above circumstances, it is seen that the purchases of the assessee concern have been verified by the major creditors of the

assessee. The above information along with the confirmations from the creditors is attached for ready reference at your end in the interest of natural justice. It is directed to offer your comments, if any, **on or before 10.10.2024** so that the pending appeal can be disposed-off. Permission is granted u/s 250(4) to conduct enquiries, if so desired."

The AO in response submitted his report vide letter no. 1853 dated 13.11.2024 which has already been reproduced above. In the said report, the AO has reiterated the contentions as mentioned in the assessment order. No specific rebuttal to the enquiries conducted by this office has been given by the AO.

It is pertinent to point out that it was only during the course of enquiry done by this office that the assessee furnished the relevant evidences. The said evidences were called for under the powers of enquiry with the office of Commissioner (Appeal). Hence, the assessee has not produced any additional evidence but has only furnished evidences as called for during enquiry made by this office.

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 From the above, it is very clear that the powers of CIT(A) are coterminous with that of the AO. The report of the AO was shared with the appellant and the AR filed his rejoinder for the same. The AR stated that the detailed explanation and supporting evidence was provided by the appellant during the assessment and appeal

proceedings but the AO has proceeded to frame the remand report without giving due consideration to the evidences under consideration.

In above circumstances, it is seen that the purchases of the assessee concern have been verified by the major creditors of the assessee. Once the purchases of the assessee have been confirmed, the stock register is well maintained, the VAT returns have been filed, the AO having brought no evidence on record to prove that the sales are bogus, then considering the sales as bogus shall not stand the test of law. Also, the AO has accepted the purchases, expenditure and trading results of the assessee as the books of accounts have not been rejected.

Addition u/s 68

As regards, the addition of Rs. 1,45,00,000/- u/s 68 and invoking the provision of Section 115BBE is concerned, the order of the AO and the detailed submissions of the assessee along with the case laws have been thoroughly perused and various case laws as relied upon by the assessee have also been gone through. The contentions of the assessee had been that it is not a case of 'unexplained money' having been deposited in the bank account of the assessee and it is sale of jewellery etc. which have been deposited in the bank account and such entries have duly recorded in the audited books of accounts. The submissions of the assessee about the filing of the VAT returns have also been considered. No defects have been pointed by the AO in respect of the purchases made by the assessee, the trading results of the assessee, then the cash realized on account of sales of the stock cannot be held to be 'unexplained money' and, as such, the addition of Rs. 1,45,00,000/- is devoid of any valid reason". Moreover, the major creditors of the assessee have confirmed the purchases made by the assessee concern during enquiry u/s 133(6).

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in bank account was with respect to cash sales made during period of 1-1-2016 to 8-11-2016 - Assessing Officer verified bills submitted by assessee and observed that all bills were of value less than Rs. 2 lakhs wherein details of purchasers was not provided - He, thus, invoked section 68 on ground that genuineness of sale bills could not be verified and held that huge cash deposited in bank was from undisclosed sources - It was noted that all sales made by assessee were supported by commercial invoice duly complied with VAT provision on which VAT was paid - Also said invoices issued were reported in VAT return and sales had been accepted by VAT authority - Whether since Assessing Officer did not reject books of account of assessee by invoking section 145, Assessing Officer erred in not accepting declared cash sales as not verifiable which were recorded in books of account and were found to be correct and complete - Held, yes - Whether since accounts were regularly maintained and cash deposits were duly supported by entries passed in books of account, additions made under section 68 could not be sustained - Held, yes [Paras 9.5 and 9.8] [In favour of assessee]

Further, **Ld. THE ITAT, DELHI BENCH 'B' in the case of Income Tax Officer, Ward-2 vs. J.K. Wood India (P.) Ltd. reported at [2024] 158 taxmann.com 208 (Delhi - Trib.)** has held as under:

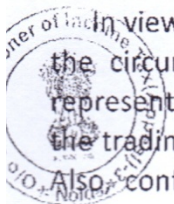
"Where assessee, engaged in business of trading wood, deposited cash in bank account during demonetization period out of sales made to various parties in cash, since such sales were duly recorded in books of account which were audited under various laws applicable and supported by credible evidence like copies of invoices, stock register maintained on a day to day basis, VAT returns filed from time to time and order of VAT authorities accepting sales made by assessee during year under consideration, impugned addition made under section 69A was to be deleted"

Further, **Ld. THE ITAT, DELHI BENCH 'C' in the case of J. R. Rice India (P.) Ltd. vs. ACIT reported at [2023] 157 taxmann.com 337 (Delhi - Trib.)** has held as under:

"Where cash deposits in bank made by assessee-company during demonetization period were duly sourced from cash sales and recovery of trade debts from sundry debtors in cash, source of cash deposits were properly explained by assessee and, thus, impugned addition made under section 68 on account of said deposits was unjustified"

In view of the above discussion and judicial pronouncements, the source of the deposits in the bank accounts is adequately explained being sale of the jewellery and the same having been recorded in the regular books of accounts and thus, Section 68 is not applicable at all and no case has been made out that the assessee is found to be owner of money, which is not recorded in the books of accounts and rather the assessee has valid explanation that there was available cash in hand, out of the sale of jewellery and in view of the various judgments discussed above invoking of Section 68 r.w.s 115BBE by the AO is not correct.

In view of the foregoing discussion and taking into consideration all the facts and the circumstances of the case, it appears that cash deposits in bank account represent the sales which the assessee has rightly offered for taxation. No defect in the trading account and the stocks of the assessee has been pinpointed by the AO. Also confirmations for the major purchase transactions of the assessee concern



were called for u/s 133(6) and submitted during the appellate proceedings by respective creditors, the results of these enquiries were shared with the AO for any comments. The AO has also not spotted any specific defect in the books of account, sales, purchase and stock. Since, the assessee has already admitted the sales as revenue receipt, there is no case for making the addition u/s 68 or tax the same u/s 115BBE again. Hence, the action of the Assessing Officer in making an addition of Rs. 1,45,00,000/- is not justified and same is therefore deleted. Accordingly, these grounds of appeal are allowed.

7. We observed that after considering the additional evidences submitted by the assessee, enquiries were conducted u/s 133 (6) of the Act and the relevant responses of the parties were forwarded to the AO for his comments, the same is reproduced at para 4.3 of the appellate order. In response to the above report, the AO has responded back which is also reproduced at para 4.4 of the appellate order. After considering the assessment order, remand report and response to the remand report by the assessee, Id. CIT (A) allowed the ground relating to cash deposit during demonetization period with the observation that the source of the deposit in the bank account is adequately explained being sale of jewellery and same have been recorded in the regular books of account, thus section 68 is not applicable at all and no case is made out that assessee is found to be owner of the money which is not recorded in the books of account and rather assessee has valid explanation that there was available cash in hand out of the sale of jewellery. Accordingly, he deleted the addition. With regard to introduction of capital by the assessee, Id. CIT (A) held as under:-

5.2 Ground of Appeal No. 5 In this ground of appeal, the AR has challenged the addition of Rs. 50 lacs made by the AO. The AO has stated in the assessment order that the assessee declared undisclosed income of Rs. 50 lacs in Pradhan Mantri Garib Kalyan Deposit Scheme, 2016. The AO held that the declaration was made by the assessee on 30.03.2017 and the undisclosed income was deposited in bank account during the period 24.03.2017 to 29.03.2017 and the same was introduced as capital. The AO held that once the declaration was made on the last day of the year, then introduction of capital during the year was not understandable. Hence, the source of addition to capital of Rs. 50 lacs was treated as unexplained and added to the income of the assessee.

The AR during the appellate proceedings submitted that the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 was introduced to provide opportunity to the person having undisclosed income in the form of cash or deposit in account to come clean by paying a tax @49.9% i.e. tax @30%, Surcharge @33% and Penalty @10%. As per AR, complete procedure under Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 was followed and taxes were paid. As per AR, the chronology of events is as per table below:

Sr. No.	Date	Amount	Remarks
1.	24.03.2017	15,00,000/-	Cash Deposited in bank account.
2.	27.03.2017	10,00,000/-	Cash Deposited in bank account.
3.	27.03.2017	15,00,000/-	Cash Deposited in bank account.
4.	28.03.2017	24,95,000/-	Tax and penalties paid @ 49.9% (copy of challan attached as Annexure - 4).
5.	29.03.2017	12,50,000/-	Compulsory Interest Free FD of 25% amount made as per PMGKDS.
	29.03.2017	10,00,000/-	Cash Deposited in bank account.
	30.03.2017	50,00,000/-	Declaration made under PMGKDS.



It is apparent from above that the assessee has already paid taxes on the cash deposit under the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 and the contentions of the appellant are found to be correct. The AO has brought to tax the same cash deposit shown as capital during the assessment proceedings which was offered under the PMGKDS Scheme and the same is uncalled for. The contentions of the appellant are found to be correct and this ground of appeal is allowed.

8. Aggrieved with the above order, Revenue is in appeal before us raising following grounds of appeal :-

“1. Whether on facts and circumstances of the case and in law, the Ld. CIT (A)-3, Noida has erred in deleting the addition of Rs.1,45,00,000/-- made u/s 68 of the Income Tax Act, 1961 on account of cash deposit during the demonetization period, without appreciating the facts that the assessee during the course of assessment proceedings failed to prove documentary evidences that the deposits represented the amount of sale of jewellery.

2. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-3, Noida has erred in deleting the addition of Rs.1,45,00,000/- made u/s 68 of the Income Tax Act, 1961, on account of cash deposit during the demonetization period, disregarding the findings of the AO given in the assessment order with regard to unreasonable high cash sales claimed by the assessee during the demonetization period in comparison to cash sales for the same period during the last 3 years.

3. Whether on facts and circumstances of the case and in law, the Ld. CIT (A)-3, Noida has erred in deleting the addition of Rs.50,00,000/- made by the Assessing Officer as unexplained capital introduction. despite the fact that the said amount was introduced in the books or the assessee prior to the date of declaration under the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 and thus remained unexplained at the time of its introduction.

4. Whether on facts and circumstances of the case and in law, the Ld. CIT (A)-3, Noida has erred in law by admitting the additional evidence filed under Rule-46A of the Income Tax Rules-1962, without referring the reasonable cause which prevented the assessee to produce the same during the assessment proceedings.”

9. After considering the submissions of the ld. DR, we observed that assessee has deposited cash during demonetization period and it has recorded the sales during the same period which was also properly recorded in their books of account. Ld. CIT (A) has issued 133(6) notices to various parties from whom assessee has purchased gold and jewellery. Based on the confirmation, ld. CIT (A) has found that the purchases were genuine and the same report was shared with the AO. After considering

the remand report from the AO, ld. CIT (A) found that the information submitted by the assessee is just and proper. Since the purchases found to be genuine, the ld. CIT (A) found that the assessee has sold the same jewellery during demonetization period and there is enough material to show that the assessee has source for making cash deposit during demonetization period, accordingly he deleted the same. After considering the detailed findings of the ld. CIT (A), we do not see any reason to disturb the same.

10. With regard to Ground No.4 raised by the Revenue that ld. CIT (A) has admitted the additional evidences without following Rule 46A of the Income-tax Rules, 1963 (for short 'the Rules'), we observed from the record that no doubt ld. CIT(A) has admitted additional evidences, however proceeded to make enquiry of the notices u/s 133(6) to various parties and found that the purchases made by the assessee are genuine. He also gave an opportunity to the AO. After giving opportunity to the AO, he has power to decide the issue, therefore, in our considered view, there is no violation of Rule 46A of the Rules. Accordingly, ground no.4 and ground nos.1 & 2 raised by the Revenue are dismissed.
11. With regard to ground no.3, we observed that assessee has introduced the capital no doubt at the fag end of the year under consideration. However, it has filed the relevant form under Pradhan Mantri Garib Kalyan Deposit

Scheme (PMGKDS), 2016. Ld. CIT (A) has reproduced the relevant deposits in its bank account from 24.03.2017 to 29.03.2017 and declaration made under PMGKDS 2016 scheme on 30.03.2017. From the above facts, ld. CIT (A) found that the assessee has already paid taxes on the cash deposits under PMGKDS 2016 scheme and the contention of the assessee found to be correct. After considering the detailed findings of the ld. CIT (A), we do not see to disturb the same. Ground No.3 is dismissed.

12. 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/-
(SATBEER SINGH GODARA)
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