

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.2681/Del/2025
(Assessment Year:2017-18)**

ACIT Room No. 192A, First Floor, CR Building, ITO New Delhi – 110002	Vs.	Triveni Impex Private Limited, 581/5, KatraIshwarBhawan Khari Baoli, Delhi – 110006
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AABCT2170N		
Appellant	..	Respondent

Appellant by :	Sh. Ved Jain, Adv. Ms. Uma Upadhyay, CA
Respondent by :	Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing	07.01.2026
Date of Pronouncement	23.01.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Revenue against the order dated 13.03.2025 of the Ld. CIT(A)-31, Delhi (hereinafter referred as Ld. First

Appellate Authority or in short Ld. 'FAA') in DIN & Order No : ITBA/APL/S/250/2024-25/1074469779(1) arising out of the order dated 31.12.2019 u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the ACIT, Circle-25(2) for AY: 2017-18.

2. Heard and perused the record. The assessee's return of income was selected for scrutiny and assessee's receipt from certain parties were found to be in the form of accommodation entries with regard to which investigation wing report was also available with the Assessing Officer and thus, the receipt of Rs.5,49,00,000/- from these parties were examined and AO had sought following documents for examining the genuineness of receipt:

- i. ledger confirmation of the party along with the bank statement of the party highlighting payment thereof.
- ii. Financial statement of the party for the concerned AY.
- iii. ITR of the party for the concerned AY.
- iv. Source of source of payment.
- v. Copy of the contract/agreement executed with the abovementioned parties.

3. The assessee had filed reply and in regard to two parties i.e. Balaji Enterprises to the extent of Rs.3,52,30,000/- and Maruti Enterprises to the extent of Rs. 2,65,00,000/- the Assessing Officer was not satisfied and observed as follows:

“The reply of the assessee has been considered but it is untenable. The assessee has contended that it has made the sale to the parties namely (Balaji enterprises: Rs. Rs.3,52,30,000/-and Maruti enterprise :2,65,00,000). However, it is stated that the investigation wing has conducted the detailed enquiry with respect to the abovementioned parties and come to the conclusion that such concerns are sham parties and incorporated by Shri Vikas Agrawal for providing accommodation entry. If that would have been the case, the assessee has dealing with the sham entity who were not involving in any kind of trade. Therefore the contention of the assessee is hereby rejected. Here it is pertinent to note that the provision of the section 68 of the act envisages that if there is any sum which has been credited in the books of the assessee then it is assessee responsibility to explain the source of credit to the satisfaction of assessing officer.

There are three ingredients of section 68 of the act through which assessee can discharge the primary burden as casted by the provision of law which is to prove the identity of the party, the genuineness of the transaction and credit worthiness of the party. The three ingredients can be established by the assessee through filing the Income tax return of the party, financial statement of the party, agreement as executed with the party and bank statement of the party to discharge its primary burden. In the given case the assessee except furnishing the certain documents (such as confirmation, financial statement of the party etc) could not discharge the initial burden as casted by the provision of

section 68 of the act. Hence, In view of the above discussion, I hold that the assessee has taken accommodation entry of Rs 5,49,00,000/- in the shape of loan and hereby added to the income of the assessee.”

4. Further addition was made on account of unaccounted cash credits of Rs.37,00,000/- u/s 68 of the Act and the additions have been deleted by the First Appellate Authority for which Revenue is in appeal and has raised following grounds:

- “1. Whether on the facts of the case and in law, the Id. CIT(A) has erred in deleting the addition of Rs. 5,49,00,000/- on account of unsecured loan u/s 68 of the Income Tax Act, 1961 without considering the fact that assessee has failed to discharge the primary burden as casted by the provision of law which is to prove the identity of the party, the genuineness of the transaction and credit worthiness of the party.
2. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) has erred in deleting the addition of Rs.37,00,000/- on account of unexplained cash deposit u/s 68 of the Act without considering the fact that the assessee has failed to prove the difference of cash deposits in the year under consideration.

The appellant craves to be allowed to add any fresh ground(s) of appeal and or delete or amend any of the ground(s) of appeal.”

5. At the time of hearing an additional ground was raised by Id. DR, that Id. CIT(A) has erred in admitting the additional evidence in violation of Rule 46A of the Income Tax Rules, by not giving an opportunity for filing comments and verification.

6. The ld. DR has vehemently argued that if the assessment order is seen it specifically mentions of the specific queries and documents called for and that assessee had not provided the relevant information and evidence. However, the ld. CIT(A) has taken into consideration the paper book filed by the assessee in First Appellate proceedings and without calling for the report and comments of the Assessing Officer has considered the evidences to give findings in favour of the assessee.

7. In order to appreciate these contentions of ld. DR we reproduce here para 10 to 12 of the order of ld. CIT(A) wherein the ground with regard to addition of Rs.5,49,00,000/- u/s 68 of the Act has been dealt with including the observation of ld. CIT(A) with regard to evidences placed by the assessee in the paper book.

“10. Brief facts leading the said addition is that the appellant is a Private Limited Company engaged in the business of Trading and export of Dry Fruits, Spices and other exotic kirana goods from Khari Baoli Area of Delhi. From the reply submitted to the AO and as incorporated by him in the assessment order, it is seen that in order to meet the queries of the AO, appellant stated that it had not entered into any accommodation entries and all purchases made by the appellant company are on account of import of goods and in support thereof

submitted complete details of the purchases made e.g. Purchase register reflecting complete details of import of goods, Details of suppliers, bills of entry, items purchased, custom duty paid, sales ledger, details of goods sold, sales bills and other various details etc. The appellant confirmed that it has made sales to M/s. Balaji Enterprises and M/s. Maruti Enterprises, and the amount of Rs. 5,49,00,000/- was received through banking channel from these parties during the demonetization period i.e. from M/s. Balaji Enterprises Rs. 3,52,30,000/- and from M/s. Maruti Enterprises Rs. 2,65,00,000/-.

11. On the other hand, the AO has relied upon the information received by him from the Investigation Wing and rejected the submissions made by the appellant. Nothing contrary has been brought on record by the AO in order to rebut any of the evidence brought on his record by the appellant to disprove the genuineness of the sales made by the appellant to these parties. The AO stated that except furnishing the certain documents e.g. confirmation, financial statement of the party etc. appellant could not discharge the initial burden as cast upon it by the provision of section 68 of the Act and concluded that appellant has taken accommodation entry of Rs.5,49,00,000/- in the form of loan from these parties.

12. Upon careful consideration of the submissions made by the appellant in this regard and the evidences placed by the appellant in the Paper book consisting of confirmations of accounts from these parties, acknowledgment of ITRs of these parties, their bank

statements, sale invoices raised on these parties, transportation documents for goods sent to these parties, bank statements showing the payments received from these parties, copies of the VAT returns filed which include sales made to these parties, Stock Register and sales register etc. which have been filed in order to establish the genuineness of the sales made by the appellant, I find that the appellant has discharged its onus as envisaged u/s 68 of the Act. It is seen that none of the evidences submitted by the appellant is controverted by bringing in any contrary evidence and there is no discussion even in the assessment order about the evidence submitted by the appellant. Furthermore, since the sales made to these parties have been recorded by the appellant, and books of accounts of the appellant have also not been rejected by the AO, I do not find any reason to sustain the said addition of the amount received by the appellant company through banking channel during the demonetization period from these parties amounting to Rs.5,49,00,000/- which have been treated by the AO as accommodation entries. The AO has doubted the sales made by the appellant to these parties, though all purchases made by the appellant are through import of goods on which custom duty has also been paid by the appellant company. These sales made by the appellant are duly recorded in its books of accounts and are the part of the turnover of the appellant company, which has also not been doubted by the AO. Thus, I do not find any reasons to sustain the addition made u/s 68 of the Act, when the sales are duly recorded by the appellant in its books of accounts. Therefore, I hold that the AO is not justified in making the

said addition of Rs. 5,49,00,000/- and that the said addition is liable to be deleted. Hence, the said addition is hereby deleted.”

8. In regard to this ground we are of the considered view in the assessment order itself the Assessing Officer has mentioned of the reply dated 30.12.2019 being received which was in response to the five information and documents sought and relevant findings of AO are reproduced the said reply:

2. Copy of some purchase bills of import purchases made during the F.Y. 2016-17 also filed with your good self.
 3. Copy of our bank accounts also filed with your good self to prove payments made by us.
 4. Copy of our Sales Ledger for F.Y. 2016-17 along with detail of goods sold also filed
 5. Copies of sales bill of sales made during the F.Y. 2016-17 also filed
 6. Stock Register of F.Y. 2016-17 and F.Y. 2015-16 showing complete detail of Opening Stock, Closing Stock and movement of goods have also been filed
 7. Confirmation of accounts of the buyers also filed along-with confirmation of Account, their Bank Statement and copy of their ITR for F.Y. 2016-17 relating to M/s Balaji Enterprises and M/s Maruti Enterprises to whom the goods were sold.
 8. Our Bank Statements of F.Y. 2016-17 of Axis Bank and IDBI Bank also filed. ✓ ✓
 9. Month wise cash summary of F.Y. 2015-16, F.Y. 2016-17 an F.Y. 2017-18 indicating the Opening Balance, Closing Balance, Cash Sales, Cash Deposit, Cash Withdrawal and Cash Expense also filed.
 10. Bank Book of F.Y. 2016-17 and F.Y. 2015-16 indicating the complete detail of all debit and credit entries also filed
 11. Cash Book of F.Y. 2015-16 and F.Y. 2016-17 reflecting the detail of outflow and inflow of cash also filed
 12. We are also attaching herewith the copies of some sales bills along with copies of GR's relating to goods sold to parties like Balaji enterprises and Maruti enterprises to prove the actual movement of goods and genuineness of transactions.
- Sir, the details and documents which was required to prove the genuineness of our purchase and sale have been submitted before your good-self.

9. After considering the aforesaid we are of the considered view the Id. DR has stretched too far the invocation of Rule 46A for admitting additional evidences as the Assessing Officer observation seems to be factually incorrect and Id. CIT(A) has taken into consideration only the same set off evidences which was part of reply of the assessee and no new information/document has been relied by Id. CIT(A). Thus, additional ground raised has no substance.

10. At the same time on merits of the addition we find that assessee had submitted voluminous documentary evidences including goods purchased receipt of the concern parties but without pointing out any inconsistency discrepancy or suspicion in documents as sacrosanct like VAT returns, stock registers, audit books of account on conjectures alone, purchases have been doubted while assessee's turnover of Rs.11,64,308/- from its trading operations in the business of trade and export dry fruits spices and other exotic kirana goods have not been doubted.

11. As with regard to the additions made on account of cash deposits the findings of Id. CIT(A) are reproduced below:

“14. Upon careful consideration of the assessment order and the written submissions filed by the appellant, it is seen that while making addition of Rs. 37,00,000/- the AO stated that there is decrease in cash sales as compared to immediately preceding year i.e. AY 2016-17 and increase in cash deposit during AY 2017-18. Hence, the reply of the appellant was found to be untenable. The AO further stated that the appellant has not discharged its onus as per provisions of section 68 of the Act, as appellant company only furnished confirmation, financial statement of the party and could not discharged its initial burden as cast upon it by the provision of section 68 of the Act. Thus, taking the average of three months of cash deposit during the years i.e. October to December, for AY 2016-17 and AY 2017-18, the amount that could have been deposited was worked out to be Rs. 1,47,00,000/- by the AO as against amount of Rs. 1,84,00,000/- deposited by the appellant company, by observing that the same is opposite to the trend of sales for the same period of time and accordingly made the addition of the difference of Rs. 37,00,000/- u/s 68 of the Act.

15. The cash deposited by the appellant in the present case is out of the cash in hand available as on 9.11.2016 which was as a result of cash sales made by the appellant prior to demonetization period. Further, from the details placed on record by the appellant, I find that the total turnover of the appellant has increased substantially for the assessment year under consideration as compared to immediately preceding year. Furthermore, the cash deposited during the year under consideration is Rs. 2,76,71,601/- as compared to the immediately preceding year i.e. cash deposited Rs. 3,02,90,680/-. As per charts reproduced by the AO, it is found that during the demonetization period appellant had deposited cash amounting to Rs.1,82,20,000/- which was out of closing cash in hand as on 8.11.2016 i.e. opening cash in hand as on 9.11.2016. The AO considered the cash deposited in three months i.e. of October, November and December, which has no basis, and made the addition of the difference of Rs. 37,00,000/-. It is seen that the cash deposited by the appellant is out of the sales made by it which is part of the turnover declared. Books of accounts of the appellant are audited, and there is no adverse observation of the AO with regard to the veracity of the books of accounts. I have also considered the judgments relied upon by the appellant in this regard, and considering the same I do not find any reasons to sustain this addition made by the AO which has been made on the basis of some arbitrary average of deposits of three months. Therefore, I find that the said addition of Rs.37,00,000/- is not sustainable on facts as well as in law. Accordingly, the said addition is liable to be deleted. I hold accordingly. Hence, this addition of Rs. 37,00,000/- is hereby deleted.”

12. Assessee had established that AO's conclusion are factually incorrect with regard to comparison of previous years cash sales as the cash deposited during AY: 2017-18 is Rs.2,76,71,601/- while AY: 2015-16 the same was Rs.3,02,90,680/-. The cash sales for Financial Year 2015-16 has been taken at Rs.3,28,25,360/- where the same was Rs.3,23,62,628/-. The cash sales during festive season of Diwali in regard to product dealt by the assessee certainly increases being a phenomena but without pointing out any discrepancy in the stocks, sales, and purchases the cash sales were doubted and additions were made.

13. Ld. CIT(A) has duly taken note of plausible explanation thus the findings need no interference. The grounds raised by the revenue on merits also have no substance the appeal of the revenue is **dismissed**.

Order pronounced in the open court on 23.01.2026

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 23.01.2026
Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI