

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH, SURAT**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 956/SRT/2025  
(Assessment Year: 2017-18)

Emerald Gems Pvt. Ltd., 404-A, Ambica Darshan Appt., Moti Khadiya Sheri, Sayedpura, Surat-395003  [PAN : AADCE 0172 B]	Vs.	Income Tax Officer, Ward-1(1)(2), Surat
<b>(Appellant)</b>	..	<b>(Respondent)</b>
<b>Appellant represented by :</b>	Shri Rasesh Shah, CA	
<b>Respondent represented by:</b>	Shri Ashish Kumar, Sr DR	
<b>Date of Hearing</b>	21.01.2026	
<b>Date of Pronouncement</b>	23.01.2026	

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

This appeal has been filed by the assessee against the order dated 25.07.2025 passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "Ld. CIT(A)"), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2017-18.

2. The assessee has raised following grounds of appeal:-

*"Grounds of Appeal*

1. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of Assessing Officer in making addition of Rs. 35,25,000/- on account of alleged unexplained cash credit u/s.68 of the IT Act, 1961.*

2. *On the facts and circumstances of the case as well as law on the subject, the learned Assessing Officer has erred in taxing the addition by taking the rate @77.25% by attracting Section 115BBE instead of taxing as per normal*

*tax slab. The addition if any that maybe confirmed should be taxed as business income.*

*3. Even otherwise on the facts and circumstances of the case as well as law on the subject, the Assessing Officer has erred in taxing the income u/s 115BBE @ 77.25% in a retroactive manner by applying the duly substituted Section 115BBE inserted retrospectively instead of taxing it at 35.54% as per the old provisions of Section 115BBE."*

3. The brief facts of the case are that the assessee company is engaged in the business of import, export and trading of diamonds. It filed its return of income for AY 2017-18 declaring total income of Rs.4,25,100/-. The case was selected for limited scrutiny under CASS for verification of cash deposits during the demonetization period from 09.11.2016 to 30.12.2016. During this period, the assessee deposited cash aggregating to Rs.35,25,000/- in its bank accounts. The Assessing Officer treated the said cash deposits as unexplained cash credits u/s 68, holding that the assessee failed to establish identity, creditworthiness and genuineness, and taxed the same u/s 115BBE of the Act. The Ld. CIT(A) confirmed the action of the Assessing Officer.

4. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

5. Before us, the Ld. AR submitted that the cash deposits represented proceeds of cash sales made prior to demonetization, duly recorded in the books of account. It was also contended that the books of account were regularly maintained and audited, quantitative stock records were furnished and duly reconciled and the purchases were accepted and not disputed by the Assessing Officer. The Ld. AR also submitted that the cash sales constituted only about 0.15% of total turnover of more than Rs.270 crores and no defect was pointed out in the books of account u/s 145 of the Act. It was further submitted that sales

receipts credited in the books cannot be treated as unexplained cash credits u/s 68 and reliance was placed on various judicial precedents.

6. The Ld. DR, on the other hand, supported the orders of the lower authorities and submitted that the assessee failed to conclusively prove the genuineness of cash sales and therefore the addition was rightly made.

7. We have heard the rival contentions and perused the material available on record. It is an undisputed fact that the assessee is carrying on an established business of diamond trading; the cash deposits were duly recorded in the books of account; corresponding sales were reflected as business receipts; purchases and quantitative stock records were accepted by the Assessing Officer. It is also pertinent to note that no rejection of books of account was made u/s 145 of the Act in this case. Section 68 applies where any sum is found credited in the books of account for which no satisfactory explanation is offered. In the present case, the cash deposits are admittedly related to sales recorded in the regular books of account. Once the sales are accepted and the stock is tallied, the sales receipts cannot be treated as unexplained cash credits. It is well settled law that business receipts credited in the books cannot be assessed u/s 68 merely because they are received in cash, unless the sales are found to be bogus. Reliance is being placed on the following decisions:-

(i) Lakhmichand Baijnath v. CIT (35 ITR 416) (SC),

(ii) Smt. Harshila Chordia v. ITO (298 ITR 349) (Raj.),

(iii) Shree Sanand Textiles Industries Ltd. v. DCIT (ITAT Ahmedabad).

8. In the present case, the assessee has declared a total turnover of about Rs.270 crores, and the cash sales corresponding to the cash deposits constitute only a negligible fraction of the total turnover. The declared gross profit rate of 0.07% is consistent with the nature of the diamond trading business and has not been disputed by the Assessing Officer. The purchases and sales are duly

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supported by the corroborative purchase and sales register placed on pages 80-88 of the paper book, and no discrepancy in quantitative details or stock movement has been pointed out. Further, the Assessing Officer has neither doubted the purchases nor the closing stock, nor brought any material on record to prove that the cash deposited represented income from undisclosed sources. In view of the above facts and circumstances of the case, we hold that the addition of Rs.35,25,000/- u/s 68 is unsustainable.

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

**This order is pronounced in the open Court on 23.01.2026**

Sd/-

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Surat; Dated 23/01/2026

*btk*

Sd/-

**(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण ,/DR,ITAT, Surat,
6. गार्ड फाईल /Guard file.

**आदेशानुसार/ BY ORDER,**

**TRUE COPY**

**सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण  
ITAT, Surat**