

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1565/Ahd/2025
(Assessment Year: 2017-18)

Ankit Vijaykumar Jain, 27, Dhananjay Bunglows, 132, FT Ring Road, Sateliet, Ahmedabad-380015	Vs.	Deputy Commissioner of Income Tax, Circle-3(2), Ahmedabad
[PAN No.ADIPJ5727E]		
(Appellant)	..	(Respondent)

Appellant by :	Shri D K Parikh, A.R.
Respondent by:	Shri Kamal Deep Singh, Sr. DR

Date of Hearing	09.12.2025
Date of Pronouncement	29.01.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the National Faceless Appeal Centre Delhi (in short “NFAC”), vide order dated 09.07.2025 passed for A.Y. 2017-18.

2. The assessee has taken the following grounds of appeal:-

“1. The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE) grievously erred both in law and on facts in confirming the addition of Rs. 48,02,549/- IN RESPECT OF CASH DEPOSITED IN BANK ACCOUNT FOR WHICH DETIALED AND ELABORATE SUBMISSIONS AND EVIDENCES WERE FURNISHED TO THE LD. A.O AS ALSO, AS MANY AS SEVEN WRITTEN SUBMISSIONS FROM TIME TO TIME TO LD NFAC The sources of such deposits being evident from audited books of account which are not rejected, the addition ought not to be made and sustained. It be deleted now.

2. 2. The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE) grievously erred both in law and on facts in confirming the patently wrong addition of Rs. 48,02,549/- made by ld. AO by wrongly invoking section 68 of the Act in respect of bank deposits since section 68 are not

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applicable and when, the sources of cash deposits in bank account were fully explained and verified from audited accounts and also, from evidences of sales and ledger accounts as well as bank statements furnished to both the lower authorities. It be so held now and addition so sustained be deleted now.

3. *The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE) further grievously erred both in law and on facts in not properly considering the submissions and the legal position as per binding judgments that once sales are accepted, addition of the amounts of sales and collection will amount to double taxation. It be so held now and addition of Rs. 48,02,549/- be deleted now.*

4. *The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE] also further grievously erred both in law and on facts in not appreciating that the Id. AO himself has accepted the net profit as per books while computing total income as per Return and thus the books of account were duly accepted. The addition therefore made which were fully verifiable from such audited books is patently erroneous and against sanction of law. It be so held now.*

5. *The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE) also grievously erred both in law and on facts in confirming disallowance of Rs. 19,92,025/- in respect of Commission expenses for which complete details were furnished to Id. AO with appellants reply dated 18.12.2019 regarding sales affected through agents and also TDS deducted. The expenses being incurred in normal course of business ought not to be disallowed. The same ought to be deleted. It be deleted now.*

6. *The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE) grievously erred both in law and on facts in not reproducing and considering all previous submissions made to NFAC from time to time in which complete and elaborate submissions and details with regard to erroneous addition/ disallowance were furnished. The same ought to be considered properly while passing a cryptic order after lapse of considerable time. It be so held now and returned income be directed to be accepted in toto.*

7. *The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE) also grievously erred both in law and on facts in holding that section 115BBE is applicable which is patently work in view of the various decisions holding that section 115BBE is not applicable for A.Y. 2017-18 as also, on facts, there is no justification to invoke section 115BBE of the Act. It be so held now.*

8. *8. The learned Commissioner of Income Tax (Appeals) (NATIONAL FACELESS APPEAL CENTRE] grievously erred both in law and on facts in strangely holding that penalty was to be sustained u/s 271AAC(1) in respect of erroneous addition of Rs. 48,02,549/-when the ground was against Initiation of*

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proceedings and hence confirming the levy of penalty was not permissible as done LD. NFAC

9. *The Order passed by Id. CIT(A)/NFAC is against the principles of natural justice and being passed without properly considering various submissions, deserves to be cancelled. It be so held now.*

10. *10. The Id. CIT(A) [NFAC] ought to have accepted the various grounds of appeal by allowing them in toto.*

11. *The appellant craves leave to add, alter, modify or delete any of the grounds at the time of hearing.*

3. The brief facts of the case are that the assessee, Shri Ankit Vijaykumar Jain, proprietor of M/s. Bharat Fabrics, is engaged in the business of fabric trading. The assessee filed his return of income for Assessment Year 2017–18 on 17.10.2017 declaring total income of Rs.63,05,580/-.

4. During the course of assessment proceedings, the Assessing Officer made three major additions/disallowances. **Firstly**, an addition of Rs.25,00,000/- was made under section 68 of the Act in respect of an unsecured loan received from M/s Jainson, on the ground that the bank statement of the creditor did not reflect the corresponding debit entry, though the assessee had filed confirmation and contra account. **Secondly**, an addition of Rs.48,02,549/- was made under section 68 of the Act in respect of cash deposits made in bank accounts during the demonetization period. The assessee explained that these cash deposits were sourced from opening cash balance, withdrawals from bank accounts, cash sales duly recorded in the audited books, and collections

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from sundry debtors. The Assessing Officer, however, rejected the explanation mainly on the ground that adequate corroborative evidence such as invoices and confirmations was not furnished to his satisfaction. **Thirdly**, the Assessing Officer disallowed commission expenses of Rs.19,92,025/- on the ground that the assessee failed to establish the nature of services rendered by the agents, despite the fact that the payments were made through banking channels and tax was deducted at source. The total income was thus assessed at Rs.1,55,10,150/-. The Assessing Officer also invoked section 115BBE and initiated penalty proceedings under section 271AAC of the Act.

5. Aggrieved by the assessment order, the assessee carried the matter in appeal before the Commissioner of Income Tax (Appeals). Before the CIT(Appeals), the assessee submitted that the addition of Rs.25,00,000/- under section 68 of the Act was unjustified as the identity, creditworthiness and genuineness of the loan transaction from M/s Jainson were fully established by confirmation, PAN, ITR and bank statement, and the alleged discrepancy was only due to a scanning issue. With regard to the addition of Rs.48,02,549/- relating to cash deposits, it was submitted that the cash deposits represented business receipts duly recorded as sales in the audited books of account, collections from sundry debtors and explained withdrawals, and that once sales were accepted and taxed in the profit and loss account, treating the same receipts again as unexplained cash credit would result in double taxation. The assessee relied upon several judicial precedents including decisions

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of the Hon'ble Gujarat High Court and the Tribunal to contend that section 68 of the Act cannot be invoked in respect of sales recorded in regular books of account. As regards commission expenses, it was submitted that commission was paid in the normal course of business through banking channels, tax was deducted at source and similar expenditure had been allowed in earlier years.

6. The CIT(Appeals), after considering the material on record, partly accepted the appeal. In respect of the unsecured loan of Rs.25,00,000/-, the CIT(Appeals) held that the assessee had discharged the initial onus under section 68 of the Act by filing confirmation, bank statement and ITR of the lender, and therefore deleted the addition. However, in respect of the cash deposits of Rs.48,02,549/-, the CIT(Appeals) held that the assessee failed to furnish sufficient corroborative evidence for cash sales and collections from debtors and, therefore, confirmed the addition under section 68 of the Act. The CIT(Appeals) confirmed the disallowance of commission expenses of Rs.19,92,025/- on the ground that the assessee could not establish the services rendered by the agents. The CIT(Appeals) further held that section 115BBE of the Act was applicable for Assessment Year 2017-18 and sustained penalty proceedings under section 271AAC in respect of the confirmed addition. Accordingly, the appeal was partly allowed.

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7. The assessee is in appeal before us against the order passed by the CIT(Appeals) dismissing the appeal of the assessee insofar as it relates to the confirmation of addition of Rs.48,02,549/- under section 68 of the Act, the disallowance of commission expenses and the consequential application of section 115BBE and penalty provisions.

8. We have heard the rival contentions and perused the material on record. The central issue before us is whether the addition of Rs.48,02,549/- made under section 68 of the Act in respect of cash deposits during the demonetization period, which were admittedly recorded as sales and business receipts in the audited books of account, can be sustained in law. The ancillary issue relates to the disallowance of commission expenses and the applicability of section 115BBE.

9. From the record, it is an undisputed fact that the assessee is carrying on regular business, maintains audited books of account, and the books of account have not been rejected by the Assessing Officer. It is also not in dispute that the cash deposits in question are duly reflected in the cash book and bank book, and that the corresponding sales have been credited to the profit and loss account and offered to tax. The Assessing Officer has nowhere disputed the quantitative details of stock or the factum of sales; rather, the addition has been made solely by treating the cash deposits as unexplained under section 68 of the Act.

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10. The consistent judicial view is that where amounts are credited as sales in the regular books of account and such sales are not found to be fictitious, the same receipts cannot again be brought to tax as unexplained cash credits, as it would amount to double taxation of the same income. In this context, reliance placed by the learned counsel for the assessee on the judgment of the Hon'ble Gujarat High Court in **Principal Commissioner of Income Tax v. Tripathi Proteins Pvt. Ltd., Tax Appeal No. 268 of 2023 (Gujarat High Court)** is well founded, wherein it has been reiterated that once the amount is shown as sales in the books and taxed accordingly, addition under section 68 is not permissible.

11. We also note that section 68 of the Act is wrongly invoked in respect of cash deposits which are part of recorded business receipts, especially when books of account are accepted. Similar views have been expressed in **CIT v. Vishal Exports Overseas Ltd. (Tax Appeal No. 2471 of 2009, Gujarat High Court)**, **Smt. Sarika Jain v. CIT (2017) 84 taxmann.com 64 (Allahabad High Court)**, and **Vinesh Maheshwari v. ITO (2019) 103 taxmann.com 274 (Delhi Tribunal)**.

12. Further, the issue is covered in favour of the assessee by the recent decision of the Ahmedabad Bench of the Tribunal in the case of **Deputy Commissioner of Income-tax v. Sureshkumar Periwal, IT(SS)A No. 153/Ahd/2023 and ITA No. 1116/Ahd/2023, order dated 22.04.2025.**

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For the sake of completeness and to bring clarity, we reproduce paragraphs 15 to 18 of the said judgment verbatim as under:

“15. The Ld. CIT(A) further relied on the decision of the Hon'ble Ahmedabad ITAT in the case of Shri Sanand Textile Industries Limited vs DCIT, 995/Ahd/2014, dated 6th January, 2020 wherein it is held as under:

‘9.5 From the above, we note that the provisions of section 68 of the Act can be attracted where there is a credit found in the books of accounts and the assessee failed to offer any explanation or the offer made by the assessee is not satisfactory in the opinion of the assessing officer. The assessee has explained to the authorities below that the impugned amount represents the sale which has not been doubted by the authorities below. Thus in our considered view, the impugned amount cannot be treated as unexplained cash credit under section 68 of the Act merely on the ground that the assessee failed to furnish the details of the existence of the parties.’

16. It is an undisputed fact that the assessee had made sales to SVP Corporation which was already offered to tax. On this issue, we rely to decision of the Hon'ble Ahmedabad ITAT in the case of Vishal Exports in ITA No. 1684/Ahd/2004, dated 7th August, 2009 as affirmed by the Hon'ble Jurisdictional High Court of Gujarat in Tax Appeal No. 2471 of 2009, dated 3rd July, 2012.

17. Hence, the decision of the Ld. CIT(A) cannot be held to be incorrect on facts and in law. With regard to the extra-profit determined by the Ld. CIT(A), the rationale of the Ld. CIT(A) cannot be invalidated. Ergo we find no reason to interfere with the order of the Ld. CIT(A).

18. In the result, both the appeals of the Revenue are dismissed.”

13. Applying the above binding principles to the facts of the present case, we hold that once the cash deposits are found to be duly recorded in the audited books of account as sales and business receipts, and such

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sales have not been rejected, the addition of the same amount under section 68 of the Act is unsustainable in law. The confirmation of the addition of Rs.48,02,549/- by the CIT(Appeals) is therefore set aside and the said addition is deleted.

14. As regards the disallowance of commission expenses, we find that the payments were made through banking channels, tax was deducted at source and similar expenses were allowed in earlier years. In the absence of any finding that the expenditure is bogus or not incurred for business purposes, the disallowance is also liable to be deleted.

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

This Order is pronounced in the Open Court on 29/01/2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 29 /01/2026

Neelesh, Sr. PS

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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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad