

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 5905/MUM/2025 (AY : 2017-18)
(Physical hearing)

Amit RangoRamgopal Mridang Building, C Wing, Flat No. 611, Lokpuram Complex, Gladys Alwares Road, Thane (West), Thane, Maharashtra - 400601. [PAN No. AMPPR0663R]	Vs	ITO, Ward-24(1)(1), Mumbai Room No. 702, 7 th Floor, Piramal Chambers, LalbaugParel, Mumbai – 400012.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Tanmay Padhke, Advocate & Shri Ashwin Jain, CA
Revenue by	Shri B. Laxmikanth, Sr. DR
Date of institution of appeal	25.09.2025
Date of hearing	27.01.2026
Date of pronouncement	27.01.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the assessment order of Id. CIT(A)/NFAC, Delhi dated 31.07.2025 for Assessment Year (A.Y.) 2017-18. The assessee has raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case and as per the law, the National Faceless Appeal Centre/Commissioner of Income Tax (Appeals) [the learned Commissioner (Appeals)] erred in confirming the addition of Rs. 28,65,453/- under Section 69A of the Act despite the fact that the money was recorded in the books of accounts and the pre-condition of the "money not recorded in the books of account" is clearly absent. Thus, the said addition being untenable in law may be deleted.

2. On the facts and in the circumstances of the case and as per the law, the learned Commissioner (Appeals) erred in confirming the addition of Rs. 28,65,453/- under Section 69A of the Act. Thus, the said addition being untenable in law may be deleted.

3. Without prejudice to the above, on the facts and in the circumstances of the case and as per the law, the learned Commissioner (Appeals) erred in confirming the applicability of Section 115BBE. Thus, it may be reversed.

4. The Appellant craves leave to add, alter, rescind, or amend any of the above grounds of appeal."

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that assessing officer made addition on account of cash deposit during demonetization period. During the assessment as well as before First Appellate Authority, the assessee submitted that cash deposit was out of cash withdrawn from bank on earlier occasion. In order to prove the source of cash available from the cash withdrawal, the assessee furnished date-wise details of cash withdrawal. The assessee also furnished bank statement. However, the assessee could not furnished cash book and cash ledger as it was not readily available. The entire cash deposit was from the known source. Since the lower authorities held that the assessee has no valid proof to explain the source of such deposit.

3. The Id. AR of the assessee submits that assessee has changed his tax consultant in 2018. For the period under consideration, the accounts were maintained by his previous tax consultant in tally and the assessee was having only balance sheet and profit and loss account. Thus, complete set of books of accounts were not available with the assessee. During the assessment, he requested his earlier consultant to provide complete back up of data. Since the assessee was not his regular client as he was engaged in new consultant so his new consultant could not furnish complete details. The

assessee has now prepared complete cash book along with all the details which is filed before the Bench along with Application for Additional evidence. The Additional Evidence is essential and necessary for complete adjudication of issue involved in the present appeal. The additional evidence may be admitted and the matter may be restored back to the file of assessing officer for passing the order afresh. In alternative and without prejudice submission, the Id. AR of the assessee submits that in order to avoid the long drawn litigation an adhoc disallowance @ 10/- or 8.00% of total cash deposit may be made to avoid the possibility of revenue leakage. Though the entire cash deposit was from the earlier withdrawal. The assessee has kept such cash for emergent need.

4. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the Revenue submits that assessee failed to substantiate the cash deposit before lower authorities. Thus, the lower authorities have rightly added the entire cash deposit. On the plea of admission of additional evidence, the Id. Sr. DR for the Revenue submits that more than sufficient opportunity was allowed by lower authorities, therefore, the case of assessee does not fall within Rule 29 of Income Tax (Appellate Tribunal) Rule-1963 for admission of fresh evidence.
5. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. I find that the assessing officer made addition of cash deposit in various banks namely IDBI Bank and State bank of India aggregating of Rs. 30.00 lakhs. The assessing officer made addition of such entire cash deposit. The Id. CIT(A) also confirmed the

action of assessing officer. It was held that the assessee has shown commission income of Rs. 4.00 lakh and has shown as taxable income of Rs. 1.34 lakhs only. It was also held that assessee failed to establish that amount was withdrawn and simply kept unutilised which is against the human probability. Before me, the Id. AR of the assessee made two folds' submission that firstly, during assessment, the assessee could not furnish cash book with supporting evidence and that he has prepared cash flow statement on the basis of various cash withdrawal in earlier years. In alternative, the Id. AR of the assessee prayed for adhoc disallowance. Considering the peculiarity of the fact that assessee has now filed cash flow statement for the first time before the Tribunal, which was not furnished before the lower authorities, therefore, I deem it appropriate to restore the issue to the file of assessing officer to examine the Additional Evidence and pass order in accordance with law. Needless to direct that before passing the order, the assessing officer shall provide opportunity to the assessee. in the result, the grounds of appeal raised by the assessee are allowed for statistical purpose.

6. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open Court on 27 /01/2026.

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 27/01/2026
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai