

IN THE INCOME TAX APPELLATE TRIBUNAL
“K(SMC)” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SHRI GIRISH AGRAWAL (ACCOUNTANT MEMBER)

I.T.A. No. 6333/Mum/2025
Assessment Year: 2017-18

Narendra Mohanlal Shah Flat No. 18, Tulsi Vrinda Co op HSG, Tulsi Baug, L.T. Road, Borivali West, Mumbai -400092 PAN:AAJPS6651C (Appellant)	Vs.	ITO Ward 42(1)(3), Range 431, Ward 42(1)(3), Kautilya Bhavan, Mumbai-400051 (Respondent)
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Appellant by	Shri Rashmikant Kundalia, CA
Respondent by	Shri Bhagirath Ramawat, SR D.R.

Date of Hearing	27.01.2026
Date of Pronouncement	30.01.2026

ORDER

Per: Smt. Beena Pillai, J.M.:

The present appeal filed by the assessee arises out of order dated 24/09/2025 passed by CIT(A)-7, Kolkata for assessment year 2017-18 on following revised and concise grounds of appeal:

“Ground No. 1 Invalid Invocation of Section 68

The learned CIT (A) has erred in law and on facts in confirming the addition of ₹5,79,000/- under section 68 of the Income-tax Act, 1961, in respect of cash deposited in the bank, despite the impugned fact of amount representing existing cash-in-hand duly recorded in the regular books of account, and not any "cash credit", rendering the addition void ab initio.

Ground No. 2 Non-rejection of Books and Impermissible Selective Disbelief

The learned CIT(A) has failed to appreciate that the books of account, including the cash book reflecting sufficient cash balance as on 08.11.2016, were never rejected under section 145(3), and therefore the authorities below were not legally justified in selectively disbelieving the recorded cash balance and treating the same as unexplained.

Ground No. 3-Misapplication of Sections 68 and 69A

The learned CIT(A) has erred in sustaining the impugned addition without appreciating that neither section 68 nor section 69A is applicable on the admitted facts of the case, as the cash deposited was fully recorded in the books of account, resulting in a clear misapplication of law.

Ground No. 4 Perverse Reliance on Test of Human Probabilities

The learned CIT (A) has erred in law in upholding the addition based on a mechanical application of the so-called test of human probabilities, ignoring relevant and undisputed material facts, thereby rendering the findings perverse, unreasonable, and unsustainable in law.

Ground No. 5 - General

The appellant craves leave to add, alter, amend, or withdraw any of the above grounds at or before the time of hearing."

Brief facts of the case are as under:

2. The assessee is an individual and derived his income from business and profession during the year. He filed his return of income on 31/07/2017 declaring total income of Rs. 3,69,260/-. The case was selected for scrutiny and notice u/s. 143(2) was

issued to the assessee. Subsequently, notice u/s. 142(1) was issued calling upon assessee to furnish various details.

2.1 In response to statutory notice, assessee filed its submissions. The Ld.AO observed that the assessee deposited cash Rs.5,79,000/- in his bank account during the demonetization period from 9/11/2016 to 13/12/2016. It was also noted that the assessee is engaged in providing design consultancy services to various clients in support of gold and diamond jewellery. The details of the cash deposits in the bank account were furnished by the assessee as under :

Name of the Bank	Account Number	Amount of cash deposit during demonetisation period
ICICI Bank Ltd.	1801009268	Rs.3,55,000/-
Punjab National Bank	1317000101672450	Rs.1,76,000/-
HDFC Bank	1451330003200	Rs.48,000/-
Total Amount Rs.		5,79,000/-

2.2 Subsequently, the assessee submitted that he had cash sale during the year under consideration the details of which were as under :

Particulars	F.Y.	Amount (Rs.)
Cash Sales	2014-15	2,59,500/-
Cash Sales	2015-16	2,03,750/-
Cash Sales	2016-17	3,84,960/-
Total		8,48,210/-

2.3 The Ld.AO called upon assessee to explain the source of cash reflected in the cash book as opening balance and asked assessee to justify the same. The assessee was also called upon to furnish cash book for A.Y. 2015-16 to 2017-18. From the cash book it was submitted that the assessee had cash in hand as on

31/03/2016 at Rs. 6,20,452/-. The Ld.AO then observed as under :

“5. On analyzing the above details pertaining to AY 2015-16, 2016-17 and 2017-18, following points are noticed from above mentioned details;

1. Opening cash balance as on 1 st April 2015 was Rs.5,03,312/. The genuineness of aforesaid cash balance cannot be verified in absence of documentary proof.

2. Assessee has already enough cash balance of Rs.5,03,312/- as on 1 st April 2015, why he had only made withdrawals of Rs. 158,600/- during the FY 2015-16. It is nothing but just a self-stating documents without any cogent evidence, further how it is possible that he has not incurred any personal expenditure during the entire year. Similar entries are repeated by him during FY 2016-17 for just a maintain his cash balance, which is shown by him during the demonetization.

3. Assessee has cash sales of Rs.2,03,705/- during 1 st April 2016 to 8 th November 2016. However, Rs. 15,000/- was withdrawal by him, which shows the intents of the assessee that it is done only for showing his cash balance as on 08.11.2016.

Assessee failed to provide satisfactory explanation with regard to nature and source of sum appearing in his cash book. The assessee has not put forth any documentary evidence to show reason for keeping such high cash and withdrawal of smaller amount of cash from business or personal drawing contradicts his own argument”

2.4 The Ld.AO disregarded the submissions of the assessee and made addition taking into consideration the fact that the assessee was staying with his two sons and the income of two sons jointly along with daughter in law’s was more than enough

to take care of assessee's expenditure and that no cash was required of his own. The Ld.AO thus made addition of Rs. 5,79,000/- u/s. 68 of the Act.

Aggrieved by the order of the Ld.AO the assessee preferred appeal before the Ld.CIT(A).

3. The Ld.CIT(A) upheld the observations of the Ld.AO and confirmed addition.

Aggrieved by the order of Ld.CIT(A) the assessee is in appeal before this *Tribunal*.

4. The Ld.AR submitted that cash deposit during the demonetisation period aggregating to Rs. 5,79,000/- were fully explained. He submitted that these deposits were from the accumulated cash generated out of recorded business cash sales. The Ld.AR submitted that during the financial year 2014-15 to 2016-17 the assessee had cash sales aggregating to Rs. 8,48,210/- which was duly recorded in the books of the assessee. He submitted that, excess cash deposited during the demonetisation period is out of cash in hand and that there is cash balance as on the date of deposits stands substantiated from the based on the cash book maintained from the assessee for the relevant years.

4.1 The Ld.AR submitted that the assessing officer has not doubted the accumulation of cash during the preceding years. He submitted that despite having substantial cash in hand the assessee withdraw only meagre amount during the relevant period as observed by the Ld.AO. The Ld.AR submitted that cash withdrawal is governed by the personal need, convenience and prudential. He submitted that considering the age of the assessee

it would neither be reasonable nor safe to expect assessee to carry huge sums of cash all the times. He submitted accordingly cash withdrawals were made by the assessee only as and when required including to meet contingency and emergency which adequately meet frequency require.

4.2 The Ld.AR submitted that the assessing officer failed to appreciate financial arrangement of the assessee. It is submitted that the assessee has two sons and two daughter in laws who earn sufficient income to support the routine household expenses. It is submitted that in addition certain addition was meted out of the income of assessee's wife and assessee's HUF. In this light the Ld.AR submitted that assessee did not have regular need for substantial cash withdrawals and therefore no adverse inference can be drawn merely on the basis of comparatively low withdrawal.

4.3 On the contrary, the Ld.DR though objected to the arguments of the assessee could not counter the submissions made by the Ld.AR.

We have perused the submissions advance by both sides in the light of record placed before us.

5. It is noted that the Ld.AO drew adverse inference on the basis of the cash withdrawals made by the assessee during the financial year 2015-16 and 2016-17 up to demonetisation period. On perusal of the assessment order it is noted that the Ld.AO proceeded primary on the presumption that the assessee had prior knowledge of the demonetisation and therefore structured his withdrawal. In our view this purely is based on conjectures

and surmises without any support of material evidence on record. The observation of the Ld.AO that the assessee had substantial cash in hand and yet withdrawal of meagre amount also does not justify an adverse inference. Having regard to the age of the assessee and practical consideration of safety and necessity, the explanation that cash was withdrawn only as when and was require cannot be set to be implausible.

5.1 It is further noted that the assessee had produced cash book for the relevant financial years which is reflecting the opening cash in hand and day to day cash transactions. On perusal of this cash books extracts as recorded in the assessment order it is noted that, cash generated during the year was sufficient to explain cash deposit made during the demonetisation period. The flow of the cash on respective day of deposits stands corroborated by the cash book entries and no discrepancy and or any incorrect approach has been pointed out by the Ld.AO.

5.2 It is also pertained to note that the cash book produced by the assessee before the Ld.AO was not rejected, or any inconsistency or defect pointed out. The opening cash in hand and the cash in flow during the year stands accepted and consequential flow of cash for deposits during the demonetisation period thus follows as a naturally corollary. Thus in our view, the assessee sufficiently offered the source of the cash deposits during the demonetisation period which is duly supported by the contemporaneous books of account which cannot be brushed aside based on presumption and surmises.

5.3 In the absence of any material with the cash withdrawals were contrived or the explanation offered by the assessee is false, the inference drawn by the Ld.AO cannot be sustained in the eyes of laws. We accordingly, direct the Ld.AO to delete the addition made u/s. 68 of the Act.

Accordingly the grounds raised by the assessee stands allowed.

In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 30/01/2026

Sd/-

**(GIRISH AGRAWAL)
Accountant Member**

Sd/-

**(BEENA PILLAI)
Judicial Member**

Mumbai:

Dated: 30/01/2026

Poonam Mirashi,
Stenographer

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt.Registrar)
ITAT, Mumbai