

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एफ", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्यके समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
आअसं.3926/दिल्ली/2025 (नि.व. 2017-18)
ITA No.3926/Del/2025 (A.Y.2017-18)

Hemant Kumar,
Assistant Commissioner of Income Tax,
R. No. 316A, 3rd Floor, CR Building, IP Estate,
New Delhi 110002

..... अपीलार्थी/Appellant

बनाम Vs.

Kasturi Jewellers P. Ltd.,
GG-1/140A, Vikas Puri,
New Delhi 110018
PAN: AACCK-7027-J

.....प्रतिवादी/Respondent

Appellant by : Ms. Monika Singh, CIT(DR)

Respondent by: Shri Atul Puri, Chartered Accountant

सुनवाई की तिथि/ Date of hearing : 19/11/2025

घोषणा की तिथि/ Date of pronouncement : 11/02/2026

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 17.04.2025, for Assessment Year 2017-18.

2. The Department in appeal has assailed the action of CIT(A) in deleting addition of Rs.14,52,23,691/- made u/s.68 r.w.s. 115BBE of the Income Tax Act,1961(hereinafter referred to as 'the Act').

3. Ms. Monika Singh, representing the department filed written submissions the same are extracted herein under:-

“These submissions are filed on behalf of the Revenue, respectfully praying for upholding the assessment order and restoration of the AO's addition, which was wrongly deleted by CIT(A). The following legal and factual arguments are made issue-wise, based on the assessment proceedings, orders of lower authorities, survey findings, and statutory provisions including sections 68, 115BBE, and 145(3) of the Income Tax Act, 1961.

I. Addition Under Section 68 Unexplained Cash Credits (Rs. 14,52,23,691)

Para 1: The AO made addition under section 68 on account of abnormally high cash deposits during the demonetisation period, which stand at 18.13 crore, and substantial cash sales, disproportionate to historical trade patterns (AO order, pp. 4-10, 38-41, para 4.1-4.9; CIT(A) order para 6.1.1-6.1.3).

Para 2: Section 68 squarely applies where assessee fails to satisfactorily explain the nature and source of any sum credited in its books. The onus is always on the assessee to establish identity of creditor, capacity, and genuineness (Kale Khan Mohammad Hanif v CIT 50 ITR 1 SC; Roshan Di Hatti v CIT 107 ITR 938 SC; Kamal Motors v CIT 131 Taxman 155 Raj; CIT v Oasis Hospitalities 333 ITR 119 Delhi). Assessee in the present case did not provide complete customer details or evidence of the purported sales' bona fides most cash sales were below 2 lakh, evidently to bypass mandatory PAN compliance per section 139A and Rules 114B/114C.

Para 3: The AO performed quantitative and qualitative analysis establishing that such jump in cash sales, clustered in single or contiguous dates (viz., just before/after demonetisation), was artificial. Revision of VAT returns post-facto solely to accommodate cash deposits is a suspicious event pointing towards manipulation (AO order, para 4.5; survey findings para 4.7).

Para 4: As held in Kamal Motors v CIT, the assessee must discharge initial onus by providing evidence of customers and demonstrate they are persons of means. Failure to do so allows Revenue to draw adverse inference, and sum credited is liable to be taxed as unexplained cash credit. Merely providing audited books or VAT filings does not suffice if sales are not genuine or cannot be corroborated by third party evidence. The revised VAT return and lack of third-party confirmation further support Revenue's findings. The burden to disprove is not on AO, but on assessee both as per section 68 and settled law.

Para 5: Where unexplained cash credits are discovered, section 115BBE provides for taxation at special rate, and no deduction of expenses is allowed. It is well established that mere recording of alleged sales in books does not legitimize the underlying cash deposits if supporting evidence is lacking.

II. Genuineness of Cash Sales - PAN Avoidance and Lack of Customer Traceability

Para 6: AO's findings reveal all cash bills were split below 2 lakh, which is a clear attempt to avoid PAN tracing, as mandated by the Government for all jewellery sales above that limit (Rule 114B, sec 139A, w.e.f. 1.1.2016).

Para 7: Such clustering of sales, absence of addresses, and inability to verify sales parties establishes that sales are not genuine and thus, the cash deposited represents unaccounted income. Case law supports that where the parties to sale remain unidentifiable/ unverifiable, cash credits are properly added as unexplained (Kamal Motors supra; Korlay Trading Co Ltd 232 ITR 820 Cal; CIT v Oasis Hospitalities 333 ITR 119 Delhi).

III. VAT Revision and Manipulation of Records

Para 8: Assessee revised VAT returns only after demonetisation and issuance of scrutiny notices. Revising statutory filings to match subsequent banking deposits is itself an indication of accommodation, rather than genuine trade (AO order, para 4.5). The AO's reliance on bank data, compared to original books and VAT returns, identified material mismatches in sales figures.

Para 9: In Dewas Soya Ltd vs ITD, and CIT v Vishal Exports Overseas Ltd (Gujarat HC), courts have supported additions when cash deposit patterns do not correspond to normal business trends, and post-facto revisions are used to accommodate unexplained credits (see Dewas Soya Ltd- "Addition resulting in double taxation is permitted only if deposits are not linked to genuine sales found in books").

IV. Survey Findings and Revenue Evidence

Para 10: AO and department survey teams found incongruities in sales figures reported to HDFC Bank vs Kotak Mahindra. During survey on 23.03.2017, sales for November 2016 matched books but not the higher deposits. This demonstrates that the cash deposits made during demonetisation could not plausibly arise from sales, but from unaccounted cash sources.

Para 11: It is a settled principle that department's own evidence, especially contemporaneous records and survey findings, outweigh self-serving entries in the books, particularly if the latter cannot be corroborated (see CIT v Smt. Harshila Chordia 208 CTR 250 Raj).

V. Books of Account Not Rejected Whether Necessary?

Para 12: It is not an absolute legal requirement to first reject the books under section 145(3) before making additions under section 68; section 68 operates independently if entries are unexplained (see CIT v Bedi and Co 230 ITR 580 SC; Raja & Co vs AO Baramulla ITAT Amritsar; Chowringhee Sales Bureau v CIT 87 ITR 537 SC). Rejection of books is required only where AO finds specific defects, but even if not rejected, unexplained cash credits appearing therein can be taxed if the explanation is unsatisfactory.

VI. Application of Section 115BBE and Penalty Provisions

Para 13: As per section 115BBE, unexplained cash credits are taxable at 78-84% effective rates, and no deduction for business expenses can be claimed, nor can losses be set off. The argument

of double taxation is not tenable where underlying transaction is not genuine and sales are not proved to relate to business income. AO has rightly initiated penalty proceedings separately.

VII. Principles of Onus and Burden of Proof

Para 14: Law is well settled that the onus under section 68 rests on the assessee to prove identity, creditworthiness, and genuineness of the transaction for each cash credit entry. (Kamal Motors v CIT, Bedi & Co Pvt Ltd, CIT v Oasis Hospitalities-see above; see also Roshan Di Hatti v CIT, Kale Khan Mohd Hanif v CIT). Mere correlation with turnover or recording in books does not absolve this burden.

VIII. Double Taxation - Applicability and Distinguishing Precedents

Para 15: The argument advanced by the assessee and CIT(A) regarding double taxation has no application where the sales are not proved genuine, are evidenced to be fabricated, or represent unaccounted cash routed through books. Courts have consistently clarified that double taxation is only impermissible where the receipt and sale are both found to be bona fide and offered for tax (see Vishal Exports Overseas Ltd, Dewas Soya Ltd, ITAT Delhi Ankit Garg Vs ITO-see also CIT v Bedi & Co). If the credit itself is unexplained, addition under section 68 is permissible even if corresponding sales are offered for tax.

IX. Natural Justice and Show Cause - Adequacy of Opportunity

Para 16: AO issued several notices under section 143(2) and 142(1), and meaningful opportunities were given. While CIT(A) makes allegations regarding short notice at the end of proceedings, jurisprudence holds that the adequacy of time must be seen in the context of overall proceedings. The record shows repeated opportunities and the final show cause was only a supplementary opportunity. There is no breach of natural justice (see ITAT Blog s.148A, Umanath Pandey v State of UP, BioccoLawrie Ltd v State of West Bengal, Taxmann/PIB/LiveLaw publications, CavinayMittal).

X. Distinguishing Case Laws Relied Upon by Assessee (and CIT Appeals)

Para 17: All case laws cited by the assessee (Agson Global, ACIT vs Hirapanna Jewellers, Rampur Engg. Co Ltd, Vishal Exports, Dewas Soya, Kaippallil Jewellers, Ramlal Jewellers, Sadaram Puranchand, Sandeep Chandok, Laxmipat Singhanian etc.) involve facts where books of account were found to be free of material defects, entries were backed by evidence and reasonably explained, and there was no circumstantial evidence of cash being introduced from undisclosed sources or manipulation of statutory records. In the present case, cash sales were abnormally clustered, unsupported, parties to sales untraceable, VAT revised solely to accommodate deposits, and the AO brought clear qualitative evidence of manipulation.

Para 18: None of the precedents cited involved facts where the AO could show: a) systematic PAN avoidance, b) clustering/fabrication of cash bills matching quantum of subsequent deposits, c) manipulation of statutory returns in proximity to banking events, and d) inability to identify sales parties. The present case is thus factually and legally distinguishable.

XI. Conclusion

- *In light of above facts and legal submissions, Revenue respectfully submits that:*
- *The AO's addition under section 68 was justified and based on cogent material evidence and analysis.*
- *The assessee completely failed to discharge onus of proof regarding the source, nature, and genuineness of cash credits-particularly as to customer identity and capacity.*
- *Revised VAT returns, PAN avoidance, clustering of cash sales below the tax threshold, and unexplained cash deposits are clear badges of accommodation.*
- *Survey findings and department's own evidence merit precedence over self-serving entries in audited books, which are shown to be manipulated.*
- *The CIT(A) erred factually and legally in deleting the addition; double taxation and non-rejection of books are not valid grounds for relief where sales are not proved to be genuine.*
- *All case law cited by assessee is distinguishable on facts.*

Accordingly, in view of the above submissions, reproduced para-wise and issue-wise with proper appreciation of law, facts, case law and judicial jurisprudence, it is prayed that the Hon'ble Tribunal be pleased to restore the AO's addition and uphold Revenue's appeal."

4. Per contra, Shri Atul Puri appearing on behalf of the assessee vehemently defended the impugned order and prayed for dismissing appeal of the Revenue. The Id. AR of the assessee submits that the assessee is a company registered under the Companies Act, 1956 and is engaged in the business of manufacturing, trading, import, export of all kinds of gold, silver, platinum, diamond jewellery and other ornaments. During the period relevant to assessment year under appeal, the total turnover of the assessee was more than Rs.58 crores. The assessee filed its return of income for AY 2017-18 declaring total income of Rs.3,75,49,174/-. During assessment proceedings, the Assessing Officer (AO) enquired about cash deposits in the bank account. The assessee explained that the cash deposits of Rs.18,13,00,000/- during demonetization period represents cash sales which are dully accounted in the books and have been offered to tax. The assessee furnished details of month wise cash sales during FY 2015-16 and 2016-

17. Further, the assessee furnished details of cash deposited in the bank account during FY 2015-16 and 2016-17, as well as, break-up of cash deposits prior to demonetization and post demonetization. The assessee also furnished comparative analyses of cash sales during FY 2015-16 and 2016-17. The AO cherrypicked the amounts to make analyses so as to make addition. There were multiple flaws in the analyses made by the AO which were highlighted by the assessee before the CIT(A). The CIT(A) after examining books of the assessee, stock register and bank statement deleted the addition. The Id. AR of the assessee has placed reliance on various decisions to buttress his arguments that where books of accounts have not been rejected and the assessee has been able to discharge its onus to prove that cash deposits in the bank account are from cash sales, no addition u/s. 68 of the Act can be made. Some of the decisions on which the AR of the assessee has placed reliance are as under:-

(i) DCIT vs. Manish Dhawan, in ITA No.3254/Del/2023 order dated 31.07.2025;

(ii) Deepak Sharma vs. ACIT, in ITA No. 2886/del/2022 order dated 26.03.2025;

(iii) DCIT vs. Manuvel Malabar Jewellers P Ltd., in ITA No.1011/Del/2022 order dated 18.08.2023; &

(iv) M/s. Fine Gujranwala Jewellers vs. ITO, in ITA No. 1540/del/2022 order dated 27.03.2023.

5. We have heard the rival submissions and have examined the orders of authorities below. We have also considered the written submissions filed by the Id. DR and the decisions on which Id. AR of the assessee has placed reliance.

6. The assessee company is in the business of manufacturing, trading, import, export of all kinds of gold, silver, platinum, diamond jewellery and other ornaments. The AO has made addition of Rs.14,52,23,691/- on account of alleged unexplained cash deposits in

the bank account of the assessee. The said addition was made u/s.68 r.w.s. 115BBE of the Act. In First Appellate proceedings, the CIT(A) deleted the addition holding as under:-

“6.1.5. A perusal of the assessment order reveals that the Assessing Officer did not accept the explanation that this amount represented cash sales made before the demonetization announcement substantiated by detailed documentation, including sales ledgers, purchase records, stock registers, and month-wise sales data for financial years 2015-16 and 2016-17. Despite these submissions, the Assessing Officer has not brought any cogent material on record to controvert the explanation furnished by the assessee. It is also significant that the Assessing Officer has accepted the stock registers produced by the appellant and has not raised any objection with respect to the quantum or valuation of the closing stock. No discrepancies in stock movement have been pointed out. As discussed in the above cases, when the books are accepted, no addition can be made with regard to cash deposits which form part of the turnover of an assessee. Moreover, the Assessing Officer has not invoked section 145(3) of the Act to reject the method of accounting or the books of account maintained by the appellant. In the absence of such a finding, the books of account, which are duly audited and supported by primary records, must be presumed to be reliable unless disproved.

The reliance by the AO on generalised assumptions, without rebutting the specific explanation and documentary evidence furnished by the assessee, cannot form the basis for a valid addition under section 68. The failure of the Assessing Officer to conduct any independent inquiry, seek third-party confirmations, or otherwise verify the genuineness of the transactions, coupled with the acceptance of material parts of the books of account undermines the basis of the addition.

6.1.6. After a comprehensive examination of the issues outlined in the preceding paragraphs, the allegations set forth by the Assessing Officer in the assessment order dated 29.12.2019 and the explanations provided by the appellant have been meticulously reviewed and evaluated. Both the allegations and the appellant’s submissions were scrutinized in light of the provisions of the Income Tax Act, 1961, as well as relevant judicial precedents from various forums. The sales recorded in the books and found during the survey are same as tabulated by the AO. The sales were recorded in the books and the no bar cast on the appellant to effect cash sales and so to obtain the details of customers with purchase value below the threshold limit. Purchases and the stock register were not disputed by the AO and the Survey team. The addition made by the AO that the appellant had accounted his unaccounted income through alleged cash sales during the demonetization period appears to be merely on apprehensions and assumptions. In the instant case, the sales are recorded in the books; no infirmity in purchases and stock register; appellant filed the VAT return though revised; no dispute on purchase, stocks (opening, purchases and closing balances), cash book, sale bills, sales recorded in the books during the survey conducted

by the AO; no rejection of books of accounts. Under these circumstances, the additions made u/s.68 of the Act by the AO by holding that the sales are not genuine based on ratios and apprehension is devoid of strength. Upon careful consideration of the entirety of the case, including the allegations and counter-explanations, it is concluded that the addition of Rs.14,52,23,691/- made under section 68 of the Income Tax Act, 1961, is not sustainable. Accordingly, the appeal filed by the appellant is allowed.

Accordingly, Ground Nos. 1,2, 4, 5 to 9 raised by the appellant against the addition made under section 68, which was based merely on comparison without supporting evidence and without disproving the appellant's books of accounts, are hereby allowed, with due regard to the judicial pronouncements discussed above.

Ground nos.3 and 9 to 12 have become infructuous since the earlier grounds nos.1,2, 4 and 5 to 8 are allowed. Therefore, these grounds nos. 3 and 9 to 12 are not discussed.

In the result, appeal filed by the appellant is partly allowed.”

[Emphasized by us]

7. The assessee has furnished tabular chart giving comparative analyses of sales during FY 2015-16 & 2016-17 and also tabular chart giving cash deposits in the bank during FY 2015-16 and 2016-17, as well as breakup of cash deposited in the bank prior to demonetization and post demonetization. For the sake of ready reference, the table presenting cash sales during FY 2015-16 and 2016-17 as well as the table summarizing cash deposits in the bank account and total cash receipts during FY 2015-16 and 2016-17 prior to demonetization and post demonetization during FY 2016-17 are given below:

MONTH	FY 2015-16			
	CASH SALES	SALES WITH RECEIPT TROUGH BANKING CHANNELS	EXCHANGE OLD GOLD	TOTAL SALES
APR	3,83,54,429	65,41,450	14,31,670	4,63,27,549
MAY	2,41,03,567	39,11,832	18,55,120	2,98,70,519
JUN	1,82,19,965	38,10,372	6,75,521	2,27,05,858
JUL	2,48,82,609	42,62,647	6,88,089	2,98,33,345
AUG	3,01,30,598	85,38,040	9,18,388	3,95,87,026
SEP	3,04,32,797	32,63,320	7,52,642	3,44,48,759
OCT	3,15,88,025	69,13,434	11,04,229	3,96,05,687
NOV	5,20,60,021	85,31,617	16,29,098	6,22,20,735
DEC	2,53,83,614	99,67,853	7,48,685	3,61,00,152
JAN	2,95,54,316	58,74,207	10,20,664	3,64,49,187
FEB	3,90,39,342	2,59,44,273	14,77,261	6,64,60,876
MAR	20,21,682	4,62,406	0	24,84,088

MONTH	FY 2016-17			
	CASH SALES	SALES WITH RECEIPT TROUGH BANKING CHANNELS	EXCHANGE OLD GOLD	TOTAL SALES
APR	2,19,56,304	35,02,300	5,47,590	2,60,06,194
MAY	2,15,93,832	66,63,497	0	3,04,20,092
JUN	2,50,94,358	40,10,024	54,01,400	3,45,05,782
JUL	1,69,91,661	36,05,830	46,23,430	2,52,20,921
AUG	1,47,89,599	48,36,044	56,96,926	2,53,22,569
SEPT	1,28,86,275	31,25,138	41,64,963	2,01,76,376
OCT	12,62,66,972	1,88,85,115	2,16,45,615	16,67,97,702
NOV	8,69,42,405	1,32,25,270	44,44,676	10,46,12,351
DEC	1,10,10,248	1,22,11,864	45,14,471	2,77,36,583
JAN	1,89,57,158	1,37,51,128	67,14,947	3,94,23,233
FEB	2,22,54,928	1,31,09,025	66,51,245	4,20,15,198
MAR	1,97,90,141	1,93,28,504	35,11,556	4,26,30,201

<u>Cash Deposited in Bank Accounts</u>			
Period	F.Y. 2015-16	F.Y. 2016-17	Absolute Difference (in INR)
1 st Apr to 31 st Mar	29,16,10,080	36,86,93,800	7,70,83,720
1 st Apr to 8 th Nov	18,36,52,080	13,74,49,800	(4,62,02,280)
9 th Nov to 31 st Dec	5,99,00,000	18,13,00,000	12,14,00,000
<u>Cash Sales</u>			
Period	F.Y. 2015-16	F.Y. 2016-17	Absolute Difference (in INR)
1 st Apr to 31 st Mar	34,57,70,965	39,85,33,881	5,27,62,916
1 st Apr to 8 th Nov	21,23,22,222	32,47,40,449	11,24,18,227
9 th Nov to 31 st Dec	6,28,33,403	1,27,91,205	(5,00,42,198)

8. A bare perusal of the above tables which were also available before the AO and CIT(A) would show that the assessee has been consistently depositing cash in the bank from the cash sales. Thus, cash deposits in the bank account from sales is a consistent practice followed by the AO. It is not a case where the assessee only during demonetization period in FY 2016-17 has made cash deposits in the bank. There has been overall increase in cash sales in FY 2016-17 as compared to FY 2015-16. The reason given by the assessee for increase in cash sales and cash deposits during demonetization period is plausible. The assessee has been regularly maintaining stock register indicating purchases and sales. The said stock register has not been disputed by the AO. The AO without rejecting books of assessee has raised doubt over the sales declared by the assessee on the basis of information sought by the AO from HDFC Bank Ltd. If books of account are accepted, sales declared by the assessee in audited books of account are to

be considered sacrosanct and not the information gathered from third parties. No addition can be made on mere suspicion. Further, revision of VAT returns does not conclusively prove that cash deposits are from undeclared sources. It may give rise to suspicion but additions cannot be made u/s.68 of the act on mere suspicion. It is a well settled law that suspicion howsoever strong cannot take place of the proof. The conclusion drawn by the Assessing Officer that the cash deposits in the bank post demonetization are not from cash sales is merely based on surmises and conjectures, hence, have been rightly discarded by the First Appellate Authority.

9. The Revenue has not been able to show any infirmity in the impugned order. We find the order of First Appellate Authority well-reasoned, based on appreciation of documents on record and in accordance with settled legal principals. Hence, the same is upheld.

10. In the result, impugned order is upheld and appeal of the Revenue is dismissed.

Order pronounced in the open court on Wednesday the 11th day of February, 2026.

Sd/-

(S RIFAUR RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 11/02/2026

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली/DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt.Registrar)ITAT, DELHI