

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

**BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA No. 809/Jodh/2024
(Assessment Year – 2017-18)**

Vimla Devi Bhattar E-51, Industrial Area Khichan (Phalodi) Jodhpur - 342301 PAN No. AMJPB 6652 J		ITO, Ward Phalodi - 342301
Assessee by	Shri Kapil Hirani, Advocate (Virtual)	
Revenue by	Shri Lalit Kumar Bishnoi, Addl. CIT-DR (Virtual)	
Date of Hearing	28.01.2026.	
Date of Pronouncement	17.02.2026.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal by assessee is filed against the order of National Faceless Appeal Centre, Delhi [hereinafter referred to as NFAC/CIT(A)] dated 17.09.2024 with respect to Assessment Year 2017-18 challenging the decision of Ld. CIT(A) in confirmation of an addition of Rs. 56,48,000/- against cash deposited in bank account of the assessee based on assumptions and presumptions.

2. The appellant has raised following grounds of appeal:

1. On the facts and circumstances of the case and in law, the assessment completed under section 143(3) of the Income Tax Act, 1961 is illegal, invalid and without jurisdiction and liable to be quashed.

2. On the facts and circumstances of the case and in law, the Assessing Officer grossly erred in making and CIT(A) grossly erred in confirming an addition of Rs. 56,48,000/- representing cash so deposited in bank accounts on mere assumption and presumptions and ignoring the facts and evidence that the Appellant has justifiable sources of cash to explain the amount deposited in the bank account and that the same is duly reflected and is out of the cash balance in the audited books of accounts. The addition so made thus deserves to be deleted as per law and in the interest of justice.
3. The Assessing Officer grossly erred in making and the CIT(A) grossly erred in confirming the addition of Rs. 56,48,000/- under section 69A of the Income Tax Act, 1961 (hereinafter referred to as "Act") ignoring the fact that the nature and source of the amount so deposited in bank account is duly explained and the said amount cannot be treated as unexplained as wrongly assessed by AO and further wrongly confirmed by CIT(A). The addition of Rs. 56,48,000/- under section 69A is grossly illegal and deserves to be deleted as per law and in the interest of justice.
4. On the facts and circumstances of the case and in law, the addition of Rs. 56,48,000/- representing cash deposited in bank account made under section 69A of the Income Tax Act, 1961 ("Act") is illegal and deserves to be deleted as per law.
5. On the facts and circumstances of the case and in law, the AO grossly erred in ignoring the books of accounts of the Appellant on the basis of which the Appellant filed its return of income and wherein the cash deposited in the bank account is duly recorded and accounted for. The AO having accepted the financial results as per the books of accounts of the Appellant grossly erred in making and the CIT(A) grossly erred in confirming the addition on account of cash deposited in the bank account by the Appellant emanating out of the books of accounts as accepted by the AO. The addition so made is thus illegal and liable to be deleted as per law and in the interest of justice.
6. Without prejudice, on the facts and circumstances of the case and in law, as the AO failed to establish that the Appellant was engaged in any other activity other than the business declared by the Appellant, in case the source of cash so deposited is not accepted, then the cash so deposited deserves to be considered as

cash derived from business activity and the addition be restricted to the profit on the same in the interest of justice.

7. The Appellant denies liability to be assessed to tax under section 115BBE as charged.
8. The appellant denies liability to be assessed to interest under section 234B, 234C and 234D of the Act as charged. Without prejudice, the levy of interest is unjustified, unwarranted and excessive.
9. The Appellant craves leave to add, amend, alter, vary and/or withdraw the above ground of appeal with the kind permission of the Hon'ble Tribunal.

3. The issues raised in the grounds of appeal are inter-related to each other where the appellant has challenged confirmation of an addition of Rs. 56,48,000/- u/s 69A of the Income Tax Act, 1961 and charging tax liability u/s 115BBE of the Act by the Ld. CIT(A).

4. At the outset, the Ld. Counsel for the assessee has submitted that the appellant assessee has been engaged in the trading and manufacturing of the agricultural commodities and that the deposits in the bank account was made out of the sale proceeds received by the assessee during the year under consideration. The Ld. AR argued that the Ld. Assessing Officer (in short the AO) had simply ignored the contention of the appellant which were duly supported with the copies of the purchases and sales bills being submitted during the assessment proceedings. The AR further submitted that the AO had suspicion that the products sold by the appellant was not recommended for

animals as it was being not a seasonable product. The Ld. Counsel vehemently contended that the disputed cash deposits made in the bank account amounting to Rs. 56,48,000/- during the period under consideration from 09.11.2016 to 25.11.2016 was out of sale proceeds and the addition made on this account cannot be justified. The Ld. AR has referred to a reply filed before the AO regarding the sale proceeds amounting to Rs. 56,48,000/- with the support of purchase sale bills (APB Page No. 367 to 586). The AR argued that the aforesaid cash deposit has been duly explained before the AO and by no stretch of imagination the said cash deposit of money would be treated as unexplained money u/s 69A of the Act and charging tax liability u/s 115BBE of the Act. In support, the Ld. AR has filed a detailed paper book which comprises of 634 pages which is placed on record for reference. The Ld. AR prayed that the addition made by the AO and confirmed by Ld. CIT(A) may be deleted in the interest of justice.

5. The Ld. DR supported the impugned order, however, he failed to rebut the contention of the assessee and furnish the contrary judgment.

6. We have heard both the sides and perused the material on record and written submissions filed before us. It is noted that the AO has ignored the books of accounts of the appellant assessee based on which the appellant

assessee has filed its return of income wherein the alleged cash deposited in the bank account has been duly recorded and accounted for. This fact had remained un-rebutted by the Department as the AO had accepted the financial results as per books of accounts of the appellant assessee. It is further noted that the AO has ignored to examine the purchase and sales invoices filed by the assessee along with the reply filed in compliance to notice u/s 142(1) before the AO (APB Page No. 357 to 368) where the Assessing Officer had accepted the statement of accounts and profit declared as per audited books of accounts by the assessee. Under the given set of facts, we hold that the Ld. CIT(A) is being not justified in confirming the addition on account of cash deposit in bank account by the appellant assessee which was emanating out of the books of accounts as being duly accepted by the AO.

7. Without prejudice to the facts accepted by the AO regarding the audited books of accounts and trading results, the AO failed to establish that the appellant assessee was engaged in any other activity other than the business declared by the appellant, in case of, if the source of cash so deposited was not to be accepted. Meaning thereby that the aforesaid cash deposited in the assessee's bank account deserves to be considered as cash derived from the business activity out of cash sales and addition may be restricted to the

element of profit on sales so made in the interest of justice, if such sale are not accounted for.

8. It is seen that during the assessment order under consideration, the appellant assessee has purchased all the goods through banking channels only which are duly recorded in the books of accounts and all these details have been submitted before the AO during the assessment proceedings where the AO has verified all the purchases by issuing notice u/s 133(6) of the Act to the suppliers of the assessee. The assessee has produced the purchase and sales register before the AO wherein he has raised no doubts on the sales mentioned therein and thus the books of accounts submitted by the appellant were duly accepted by the AO. It is noted that neither the AO nor the Ld. CIT(A) or the Ld. DR could establish that the cash deposited out of cash sales were not accounted for in the appellant's books of account. In our view, when the purchases and corresponding sales were never doubted by the Ld. AO and accepted as genuine then sales can be held out of the books of accounts.

9. It is pertinent to mention that the appellant assessee has made a total sales of about 10 crores, out of which a very nominal amount of 56,00,000/- was made in cash sales which constitute about 5% of the total turnover of the assessee. In the present case, the remand report was also called for wherein

the AO has reiterated the observation made in the assessment order and same has been duly rebutted by the assessee.

10. Considering the facts in totality, we are of the considered view that an addition made by the AO u/s 69A based on assumptions and presumptions, and arbitrarily as so confirmed by the Ld. CIT(A) is illegal and bad in law.

11. The Ld. CIT(A) has failed to rebut the contention and written submission of the appellant assessee. Accordingly, we hold that the order of the Ld. CIT(A) is perverse to the facts on record.

12. In the present case, it is noted that AO has passed the assessment order without issuing a show cause notice. In our view, an assessment order passed without issuing a show cause notice would be held as invalid assessment. Our view gets support from the decision delivered by ITAT Delhi Bench in the case of CIT Vs. M/s R.J. Constructions (ITAT Delhi, 2023) wherein the Bench has observed that the AO had passed an order disallowing the expenses claimed by the assessee u/s 14A of the Income Tax Act, 1961 without issuing a show cause notice to the assessee. The ITAT observed that the AO was required to issue a show cause notice before passing an order disallowing expenses, and that the order passed without a show cause notice was invalid. Thus, in the present case the AO has passed the order in violation of principles of natural justice i.e.

without issuing mandatory show cause notice and, therefore, the assessment order is also liable to be held as invalid.

13. In the backdrop of the aforesaid discussion, we hold the assessment order passed by the AO as bad in law and addition of Rs. 56,48,000/- is deleted.

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

Order pronounced in the open court on 17/02/2026.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

Dated : 17/02/2026.

Nimisha Sr. PS

True Copy

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,

(Asstt. Registrar),
ITAT, Jodhpur