

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 1170/Bang/2025
Assessment Year: 2017-18

Balamurugan Rajsunil, No.1564, East End Main Road, 9 <sup>th</sup> Block, Jayanagar, Bengaluru – 560 069.  <b>PAN – AIXPR 5508 B</b>	Vs.	The Income Tax Officer, Ward – 7(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri B.S Balachandran, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of hearing	:	29.01.2026
Date of Pronouncement	:	13.02.2026

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The present appeal, filed at the instance of the assessee, is directed against the order under section 250 of the Income Tax Act, 1961 (hereafter the Act), dated 31<sup>st</sup> March 2025 for A.Y. 2017-18 by the learned Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre.

2. The effective issue raised by the assessee through the grounds of appeal is that the learned CIT(A) erred in confirming the addition of Rs. 40 lakhs made by treating the cash deposit as unexplained.

3. The necessary facts are that the assessee, an individual, filed return of income for the year declaring total income at NIL. The case was selected for limited scrutiny under CASS for examination of cash deposit during the demonetisation.

4. The AO during the assessment proceeding found that during the demonetisation period, the assessee has made deposit of Rs. 43.10 Lakh. The source of said deposit was claimed to be gift of Rs. 2 lakh and Rs. 36,37,450/- from the father and brother which was claimed as exempted income in the return. Further, the source of cash in the hand of brother was claimed out of loan obtained from the DHFL.

4.1 The AO found that there was no occasion or purpose for which the assessee's brother given cash gift to the assessee and given those cash on multiple date in the range of Rs. 2 lakh each over a period of 2 months for redepositing the same in assessee's bank account.

4.2 Further, the AO from the materials provided during the assessment, found that the brother of the assessee Shri B Sriram has declared total income of Rs. 2,557/- only for the year under consideration and the capital account is in negative by Rs. 26,36,219/- as per the balance sheet. The loan from DHFL obtained by him (brother) is of Rs. 43,82,559/- only. Therefore, the claim of the assessee that his brother has gifted him Rs. 36,37,450/- out of said loan Rs. 43,82,559/- found as non-genuine explanation. The AO held that the assessee failed to establish the genuineness of gift and as well as credit worthiness of his brother. Hence, the AO treated the cash deposit of Rs. 40 lakh as

unexplained deposit u/s 69 of the Act and added to the total income of the assessee.

5. The aggrieved assessee preferred an appeal before the Ld. CIT(A)/NFAC. The assessee during the appellate proceeding furnished and filed detailed submission along with certain additional evidence which were forwarded to the AO for remand report.

6. In the remand report, the AO stated that during FY 2016-17 relevant to AY 2017-18, the assessee had deposited cash of ₹43,10,000 in his South Indian Bank account during the demonetisation period, out of which ₹40,00,000 deposited on 12.11.2016 was treated as unexplained. During the original assessment, the assessee had claimed that the cash came from gifts received from his brother amounting to ₹36,37,450 and from his father amounting to ₹2,00,000, and that he had sufficient cash balance as per his cash book. He also furnished a cash book showing an opening cash balance of ₹23,28,927/- and receipts of ₹34,00,000/- between 05.10.2016 and 11.11.2016 in multiple instalments of ₹2,00,000 each, which were shown as gifts. However, the AO noted that the assessee's brother had declared income of only ₹2,557 for AY 2017-18 and that the balance sheet of the brother was unsigned. The AO further observed that there was no occasion or specific purpose shown for such repeated gifts and that the amounts were received over two months and then redeposited in the assessee's bank account during demonetisation. Since the explanation was not found convincing, the AO treated ₹40,00,000 deposited on 12.11.2016 as unexplained cash under section 69 of the Act.

6.1 The AO further recorded that before the Id. CIT(A), the assessee submitted additional documents such as the computation of income and balance sheet of his brother, cash book, bank statements, DHFL loan statements and repayment schedule. On examination of these documents, the AO observed that the balance sheet, cash book and bank book of the brother were unaudited. The cash book of his brother showing opening cash balance of Rs. 11,57,179/-, cash gift from father of Rs. 12.75 lakh, withdrawal of Rs. 18 lakhs as 2<sup>nd</sup> November 2011 and further withdrawal of Rs. 1.5 lakh and 90 thousand as on 3<sup>rd</sup> and 8<sup>th</sup> November 2016 in the name of third party. The AO noted that books for the earlier year, i.e., FY 2015-16, were not produced for verification of opening and closing balances. Therefore, the claim of opening cash balance cannot be relied upon. The AO also noted from the DHFL statement that a non-housing loan of ₹31,67,817/- was disbursed on 24.10.2016 to the firm M/s Monisha Jewel Industry, where both brothers were partners and co-applicants. This amount was later credited to the brother's account on 27.10.2016, from which ₹18,00,000 was withdrawn by the brother and smaller sums ₹2,40,000/- (1.5 Lakh +0.9 lakh) was withdrawn in the name of a third person Shri Siddhartpal. The AO pointed out that since the loan was sanctioned to the firm for business purposes and not to the brother personally for making gifts, the assessee's claim that the gifts were given out of this loan amount could not be accepted.

6.2 On the basis of these observations, the AO concluded in the remand report that the entire cash deposit of ₹40,00,000 made on 12.11.2016 should be treated as unexplained money and added to the total income.

6.3 In the rejoinder to the remand report, the assessee stated that the AO's remark that the books were unaudited is not relevant because there was no legal requirement for audit. The AO also said that earlier years' records were not filed and therefore the opening balance could not be verified. However, the assessee pointed out that in the original assessment the AO never made any addition on the opening balance, which shows that it was already accepted. Even otherwise, the assessee agreed to produce any further evidence if required by the appellate authority.

6.4 On the issue of gifts, the assessee submitted that merely because the loan was sanctioned for business purposes does not mean that the money could not be used for giving a gift. It was argued that the AO himself accepted that the loan amount was withdrawn and used for the gift and that the fact of the loan and availability of funds were not in dispute. The assessee also stated that the donor was identified, and the source of money was explained with documents. Therefore, the genuineness of the transaction was proved, and the addition of ₹40 lakh was not sustainable.

7. However, the learned CIT(A) after considering the facts in totality confirmed the addition made by the AO by observing as under:

*6. Ground No. 1 to 3 are relating to the addition of Rs.40,00,000/- made u/s. 69 of the Act. The brief facts of the case are that the appellant is an individual and filed return of income on 23.03.2018 declaring NIL income. The appellant's case was selected for scrutiny as per CASS for verification of cash deposits during demonetization period. Before the AO, the appellant submitted that his cash deposits during F.Y. 2016-17 were to the tune of Rs.43,10,000/- and they comprised of gift received from brother and father amounting to Rs.36,37,450/- and Rs.2,00,000/- respectively. All these gifts were claimed to be received in cash in installments of Rs.2,00,000/- from 05.10.2016 to 11.11.2016. The AO verified the return of appellant's brother Mr. Shri Ram and it was found that his income for A.Y. 2017-18 was meagre Rs.2,557/-. As the*

*source and creditworthiness of Mr. Shri Ram were not satisfactorily explained before the AO, the AO made the addition of Rs.40,00,000/- as unexplained investment u/s. 69 of the Act.*

**6.1** *During the appellate proceedings, it was pleaded that the source of gifts by appellant's brother Mr. Shri Ram were out of loan obtained by Mr. Shri Ram from DHFL amounting to Rs.43,82,000/-. Hence, it was pleaded that the source of gift is explained. The details filed by the appellant were forwarded to the AO in remand proceedings. The AO vide remand report dated 06.02.2025 has submitted that the loan taken from DHFL was by the firm M/s. Monisha Jewel Industry, where the appellant and his brother Mr. Shri Ram partners. The appellant is a co-applicant to the said loan. There was evidence of withdrawal of Rs.18,00,000/- by Mr. Shri Ram from*

**6.2** *The appellant has not explained the reason for taking the gift in cash from his brother if the source of the gift was the loan taken from DHFL. Further, the loan was received by the firm through banking channels, the same could have been transferred to the appellant. What was the need of giving the gift by withdrawing the loan has not been explained. The loan given to the firm is a business loan and the banks or the financial institutions also verify the end use of the loan given. The loan given cannot be for giving gifts. Further, the appellant has not given any details of how the loan was repaid by the firm if it was not used for the purposes of its business. Thus, I am satisfied that the plea of the appellant that the source of the gifts was the loan taken from DHFL was an afterthought and hence, the source and creditworthiness of Mr. Shri Ram stands unproved. It is not enough if the relatives merely certify that they have given the gift. The source of the gift also needs to be explained with documentary evidence, which the appellant has failed to do even during remand proceedings. Therefore, I am convinced that the cash deposited by the appellant during demonetization was out of unexplained sources and rightly taxed by the AO as unexplained investment in u/s. 69 of the Act. Accordingly, the addition of Rs.40,00,000/- made by the AO u/s. 69 of the Act is sustained. Ground No. 1 to 3 are dismissed.*

8. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

9. The learned AR before us filed a paper book having 52 pages and contended that there was enough fund in cash available with the assessee justifying the source of cash deposits in the bank. The learned AR in support of his contention has filed the bank statement, Copy of ITA and the cash book which are available on record.

10. On the other hand, the learned DR vehemently supported the order of the authorities below.

11. We have heard the rival contentions of both the parties and perused the materials available on record. We find that the dispute before us relates only to cash deposit of ₹40,00,000 made by the assessee during the demonetisation period, as emerging from the assessment records and appellate proceedings.

11.1 It is an undisputed fact that the total cash deposited was ₹43.10 lakh, but the Revenue has questioned only ₹40 lakh. From the remand report and the findings of the lower authorities, it is clear that the assessee had shown an opening cash balance of ₹23,28,927/- in his cash book. Neither the AO nor the learned CIT(A) has recorded any specific adverse finding rejecting this opening balance. In the absence of any such rejection or contrary evidence brought on record, we see no reason to disregard the availability of this cash with the assessee at the beginning of the relevant period. Further, the Revenue has not disputed the gift of ₹2,00,000/- received from the assessee's father. Once this amount is accepted, it necessarily forms part of the available cash with the assessee for making the deposits.

11.2 Coming to the gift received from the brother, the lower authorities doubted the transaction mainly on two grounds, namely, the meagre income declared by the brother and the fact that the loan from DHFL was sanctioned in the name of the partnership firm and not to the brother individually. However, on a careful reading of the remand report itself, we notice that the loan amount received by the firm was

subsequently credited to the brother's bank account and that a sum of ₹18,00,000/- was withdrawn in cash by him shortly before the demonetisation period. There is no finding by the AO that this withdrawn cash was utilised elsewhere or spent for any other purpose. In the absence of such a finding, the availability of cash of ₹18 lakh with the assessee's brother at the relevant point of time cannot be brushed aside merely on surmises. We also note that in the brother's cash book, a receipt of ₹12.75 lakh as cash gift from his father has been recorded, and no adverse material has been brought on record by the Revenue authorities to disbelieve this entry. Therefore, to that extent also, the availability of cash in the hands of the brother stands unrebutted.

11.3 When these facts are cumulatively viewed, namely, the opening cash balance of ₹23,28,927/- with the assessee, the accepted gift of ₹2 lakh from his father, and the demonstrated availability of cash with the brother on account of bank withdrawals and other receipts, we are of the considered view that the assessee had sufficient explained cash in hand prior to demonetisation to cover the impugned deposit. The authorities below have proceeded mainly on doubts and presumptions without recording any concrete finding that the cash withdrawn by the brother was diverted elsewhere or that the opening balance and other accepted receipts were not genuine. Additions under section 69 require the Revenue to establish that the money is unexplained, and once the assessee has furnished a plausible explanation supported by contemporaneous records, the same cannot be rejected on mere suspicion. In these circumstances, we hold that the addition of ₹40,00,000/- sustained by the learned CIT(A) is not justified on the facts

of the present case. Accordingly, the same is directed to be deleted, and the grounds raised by the assessee on this issue are allowed.

12. In the result, the appeal of the assessee is hereby allowed.

Order pronounced in court on 13<sup>th</sup> day of February, 2026

Sd/-

**(KESHAV DUBEY)**

Judicial Member

Bangalore

Dated, February, 2026

/ vms /

Sd/-

**(WASEEM AHMED)**

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore