

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

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

ITA No. 2384/Bang/2025
Assessment Year: 2017-18

Pramod Basavaraj, 15, 6 th Main, 7 th Cross, Saraswathipuram, Mysuru – 570 009. PAN – AMNPP 1766 H	Vs.	The Income Tax Officer, Ward – 1(4), Mysuru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Vageesh Hegde, CA
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of hearing	:	23.02.2026
Date of Pronouncement	:	06.03.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The present appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals) under section 250 of the Income-tax Act, 1961 dated 26.08.2025.

2. The assessee in the grounds of appeal has raised as many as five grounds. However, for the sake of brevity and convenience, we are not inclined to reproduce the same here.

3. The grounds raised by the assessee are interconnected and pertain to the addition made by the AO under section 69A of the Act.

4. The relevant facts of the case are that the assessee is an individual deriving income from house property in the form of rental income and from business by conducting English speaking classes. The assessee filed the return of income for the captioned assessment year declaring total income of Rs. 6,33,250.00 only. The case of the assessee was selected for scrutiny on account of cash deposits made during the demonetization period to the tune of Rs. 28 Lakhs.

5. In response to the notice issued by the AO for verification of the cash deposits, the assessee submitted that he had earlier given advance to various parties for the purpose of purchasing a site and constructing a house. It was submitted that such advance was duly reflected in the balance sheet filed along with the return of income for the captioned assessment year. The assessee further explained that due to the ill health of his father, he decided to stay with him and therefore did not proceed with the proposed purchase and construction of the house. Consequently, the advance given to mother was returned to him. The assessee submitted that the said amounts were deposited in his account with Punjab National Bank during the demonetization period and therefore the impugned cash deposits were out of explained sources. In support of the claim, the assessee also furnished a confirmation letter from his mother regarding receipt of the advance and repayment of the same to the assessee, along with a copy of the agreement entered with her for the purchase of the site.

5.1 However, the AO observed that no such confirmation letter, as claimed by the assessee, was found attached in the assessee's e-filing account. After verification of the details furnished by the assessee, the AO held that the assessee had failed to discharge the burden of proving the genuineness of his claim regarding the source of the cash deposits. The AO further noted that considering the income declared by the assessee in earlier years and the possible savings accumulated, only a reasonable sum of Rs. 7 Lakhs could be accepted as explained. Accordingly, the balance cash deposit of Rs. 21 Lakhs was treated as unexplained money under section 69A of the Act and was brought to tax at the rate prescribed under section 115BBE of the Act.

6. Aggrieved, assessee filed an appeal before Ld. CIT(A).

7. Before the Ld. CIT(A), the assessee filed the statement of assets and liabilities as on 31.03.2016 wherein under the head current assets and amount under the nomenclature of Rs. 25,50,000 was appearing, copy of the cash book and copy of the property documents in support of his claim. It was further submitted that the property proposed to be sold by his mother could not ultimately be transferred due to differences of opinion with the concerned housing society. The assessee therefore submitted that the advance earlier given to his mother was returned to him. It was also contended that such advances were given out of the savings accumulated from the income already declared by the assessee over the years.

7.1 However, the Ld. CIT(A) concluded that during the assessment proceedings the assessee had initially explained the source of cash

deposits as the return of advances given to various parties. Subsequently, the assessee changed his explanation and submitted that the return of advance money was given to his mother. According to the Ld. CIT(A), the assessee had attempted to equate his mother with the "various parties" earlier referred to, which rendered the explanation inconsistent and unreliable.

7.2 The Ld. CIT(A) observed that such shifting stands taken by the assessee clearly indicated that the explanations were afterthoughts and appeared to be no thing, but cooked-up stories devised to justify the cash deposits made during the demonetization period.

7.3 The Ld. CIT(A) further observed that the assessee had not furnished date-wise details of the advances allegedly given to his mother. It also appeared that such advances were made in cash and, as per the assessee, the source of the advances was past savings. On examination of the records, the Ld. CIT(A) noted that the assessee had not filed returns of income for the assessment years prior to AY 2012-13. This, according to the Ld. CIT(A), indicated that either the assessee had no income prior to that year or his income was below the taxable limit. The Ld. CIT(A) held that even if the assessee had managed to save a substantial portion (40%) of his income every year, it would have taken several years to accumulate cash of Rs. 25,50,000 which was claimed to have been advanced to his mother.

7.4 The Ld. CIT(A) also observed that the assessee had failed to justify why his mother would retain such a large amount of cash after receiving it from her son, when the same could have conveniently been

deposited in a bank account. It was further noted that the assessee could not satisfactorily explain why the money was returned to him in instalments as reflected in the cash book. The Ld. CIT(A) also remarked that ordinarily the property of a mother would naturally pass on to her son, and therefore the assessee had not explained the necessity of purchasing the property from his own mother or the need for advancing money to her when she was not shown to be in immediate need of funds.

7.5 With regard to the cash book produced by the assessee, the Ld. CIT(A) held that it was merely a self-serving and self-prepared document without any independent corroboration. As regards the explanation that the property could not be transferred due to differences with the concerned housing society, the Ld. CIT(A) observed that the assessee had not elaborated on the nature of objections that the society could possibly raise when a mother intended to transfer her property to her own son.

7.6 In view of the above observations, the Ld. CIT(A) concluded that the assessee had failed to satisfactorily explain the source of the cash deposits of Rs. 28 Lakhs in his bank account. Accordingly, Ld. CIT(A) directed the AO to treat the entire sum of Rs. 28 Lakhs as unexplained money under section 69A of the Act instead of Rs. 21 Lakhs and therefore dismissed the appeal of the assessee.

8. Being aggrieved by the order of the Id. CIT-A, the assessee has preferred the present appeal before us.

9. Before us, the Ld. AR submitted a paper book running from pages 1 to 118 containing the grounds of appeal, statement of facts, bank account statements, copy of the cash book, financial statements for the financial years 2015-16 and 2016-17, a confirmation letter from the assessee's mother regarding the return of advance, and the purchase deed in the name of his mother which was proposed to be transferred to the assessee.

9.1 The Ld. AR submitted that the balance sheet as on 31st March 2016 clearly reflects the advances made by the assessee to various parties on the assets side. However, the same could not be properly furnished during the assessment proceedings as the assessee was attending to his ailing father during that period. It was further contended that both the AO and the Ld. CIT(A) have erroneously treated the cash deposits made during the demonetization period as unexplained money under section 69A of the Act. Accordingly, Ld. AR prayed that the addition made by the AO and sustained by the Ld. CIT(A) be deleted.

10. The Ld. DR on the contrary vehemently supported the orders of the AO and the Ld. CIT(A). It was submitted that the assessee has failed to provide a consistent explanation regarding the source of the cash deposits made during the demonetization period. The Ld. DR pointed out that during the assessment proceedings the assessee stated that the deposits were the return of advances given to various parties, whereas before the Ld. CIT(A) the assessee claimed that the same represented advances returned by his mother. Such contradictory explanations, according to the Ld. DR, rendered the claim of the assessee unreliable. The Ld. DR further submitted that the alleged advances were stated to

have been made in cash, and no credible supporting evidence was produced to substantiate the same. It was also contended that the cash book produced by the assessee is merely a self-serving document. Accordingly, the Ld. DR submitted that the assessee has failed to discharge the burden cast upon him under section 69A of the Act and therefore the order of the Ld. CIT(A) deserves to be upheld.

11. We have heard the rival submissions and perused the materials available on record. The short issue before us is whether the cash deposits made by the assessee during the demonetization period can be treated as unexplained money under section 69A of the Act.

11.1 The assessee has explained that the impugned cash deposits represent the return of advances earlier given for purchase of property and construction of a house. In support of the said explanation, the assessee has placed on record the balance sheet reflecting advances, the cash book, bank account statements, confirmation letter from his mother regarding return of advance and the property documents which were proposed to be transferred to the assessee. These documents form part of the paper book filed before us.

11.2 It is true that certain inconsistencies exist in the explanation furnished by the assessee and the explanation given may not be entirely free from doubts. However, the issue cannot be decided merely on the basis of suspicion. The matter has to be examined on the basis of preponderance of probabilities and surrounding circumstances. From the material placed on record, it cannot be said that the explanation of the assessee is inherently impossible or wholly unbelievable.

11.3 We further note that the Assessing Officer has rejected the explanation of the assessee primarily on the basis of presumptions without conducting any meaningful verification. The assessee had specifically stated that the money was returned by his mother. In such circumstances, the Assessing Officer could have easily verified the claim by making enquiry from the said person or by calling for necessary confirmation and supporting evidence. However, no such effort was made by the Assessing Officer. In our considered view, once the assessee has given a specific explanation along with supporting documents, it was incumbent upon the Assessing Officer to carry out necessary verification before drawing an adverse inference.

11.4 At this juncture, we also find support from the decision of the Hon'ble Karnataka High Court in the case of S.R. Venkata Ratnam v. CIT in (1981) 127 ITR 807 (Kar.), wherein it was held that once the assessee discloses a particular source of money, the revenue authorities cannot reject the explanation merely on conjectures and surmises without making proper investigation. The Hon'ble High Court held that when the assessee had stated that the funds originated from withdrawal from a bank deposit, the Assessing Officer ought to have either verified the claim from the bank or called upon the assessee to substantiate the same. Without undertaking such verification, the explanation could not be rejected merely on the ground that the conduct of the assessee appeared improbable. The relevant para is reproduced below:

"There is some force in the argument of the learned counsel for the petitioner and the argument advanced by the revenue is, therefore, without any force. Once the petitioner-assessee disclosed the source as having come from the withdrawal made on a given date from a given bank, it was not for respondents Nos. 1 and 2 to concern themselves with what the assessee did with that money, i.e., whether he had kept the same in his house or utilised the services of a bank by depositing the same. The ITO had only two choices

before him. One was to reject the explanation as not believable for the reason that on his investigation no such pigmy deposit was ever made in the bank. In the alternative he ought to have called upon the assessee-petitioner to substantiate his claim by documentary evidence. Having exercised neither of the choices, it was not open to the ITO to merely surmise that it would not be probable for the assessee to keep Rs. 15,000 unutilised for a period of two years. The ITO should have given an opportunity to the assessee to substantiate his assertion as to the source of his capital outlay."

11.5 The ratio laid down in the above decision squarely applies to the facts of the present case. Here also, the Assessing Officer has rejected the explanation of the assessee without conducting basic enquiry from the person who allegedly returned the money to the assessee.

11.6 We also draw support from the decision of the Hon'ble Supreme Court in Umacharan Shaw & Bros. v. CIT (1959) in 37 ITR 271 (SC). In the said case, the Hon'ble Supreme Court held that the conclusions of the Assessing Officer cannot be based merely on surmises and conjectures and that suspicion, however strong, cannot take the place of proof. Though the facts involved in that case were different from the facts of the present case, the core legal principle laid down by the Hon'ble Supreme Court is squarely applicable. In the present case also, the explanation of the assessee has been rejected primarily on the basis of doubts and presumptions without carrying out necessary verification. Therefore, applying the above settled principle of law, the addition made merely on suspicion cannot be sustained. The relevant para is reproduced below:

"Taking into consideration the entire circumstances of the case, we are satisfied that there was no material on which the Income-tax Officer could come to the conclusion that the firm was not genuine. There are many surmises and conjectures, and the conclusion is the result of suspicion which cannot take the place of proof in these matters."

11.7 In these circumstances, though the explanation offered by the assessee may not be entirely free from doubts, the material brought on record by the Revenue is not sufficient to sustain the addition made under section 69A of the Act. Suspicion, howsoever strong, cannot take the place of evidence.

11.8 Accordingly, considering the preponderance of probabilities, surrounding circumstances and the failure of the Assessing Officer to conduct necessary verification, we are of the view that the addition made by the Assessing Officer and enhanced by the learned CIT(A) cannot be sustained. The same is therefore deleted. The grounds raised by the assessee are allowed.

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

Order pronounced in court on 6th day of March, 2026

Sd/-

(KESHAV DUBEY)

Judicial Member

Bangalore

Dated, 6th March, 2026

/ vms /

Copy to:

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

Sd/-

(WASEEM AHMED)

Accountant Member

By order

Asst. Registrar, ITAT, Bangalore