

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.3344/Del/2025  
Assessment Year: 2022-23

Income Tax Officer, New Delhi	<b>Vs.</b>	Indo Spirits, B-230, Phase-1, Okhla Industrial Area, S.O. Tehkhand South East, Delhi
<b>PAN: AACFI8129F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Satish Agarwal, CA
Department by	Ms. Amish S. Gupt, CIT(DR)

Date of hearing	27.01.2026
Date of pronouncement	27.01.2026

**ORDER**

**PER SATBEER SINGH GODARA, JM**

This Revenue's appeal for assessment year 2022-23, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1073180440(1), dated 12.02.2025 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Delay of 21 days in filing the Revenue's instant appeal is condoned in larger interest of justice and in light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

3. Coming to the Revenue's sole substantive ground raised herein, it emerges that its sole substantive grievance seeks to reverse the CIT(A)/NFAC's lower appellate discussion holding the assessment findings adding the amount of Rs.33,77,88,969/- unexplained cash credits under section 68 r.w.s. 115BBE of the Act.

4. The Revenue vehemently argues that the Assessing Officer had rightly treated the assessee's impugned sum as having failed to explain the genuineness of the impugned cash credits representing sales realized from the twin parties herein i.e. M/s. Popular Spirits LLP and M/s. Adharv Enterprises to the tune of Rs.25,74,66,388/- and Rs. 8,03,22,581/-; respectively. Learned departmental representative further takes us to para 8.1 at page 17 in the assessment discussion that the assessee had failed to file its evidence i.e. confirmation of account of the said parties, account statements, income tax returns etc. during scrutiny.

5. The assessee, on the other hand, draws strong support from the CIT(A)/NFAC's impugned lower appellate discussion at pages 37 onwards that the assessee's business activity of carrying out foods and beverages segment is in dispute and it had filed all the details of the foregoing twin entities as rightly considered in the lower appellate discussion, as follows:

अवलोकन तथा निर्णय / **Observation and Decision:** I have carefully considered the statement of facts of the case , submission of the appellant as above , perused the materials on record and carefully gone through the order of the AO passed u/s 143(3) r.w.s 144B of the I.T Act 1961 dated 25-03-2024 . I find, as per para 8.1 of assessment order that the AO has drawn inference

to treat sales of Rs. 33.77 crores to two parties viz. M/s Popular Spirit LLP and M/s Adharv enterprise out of **Total Sales of Rs. 519.18 Crores** being bogus and added to the income u/s 68 since the appellant was unable to submit any confirmation of accounts from those parties , any bank statement of said parties involving transaction with appellant & **relevant ITRs of the third parties** .

It is observed from the submission of the appellant as well as from the assessment order that during the course of assessment proceeding the appellant has filed detail submission vide dated 15-03-2024 and dated 19-03-2024 in compliance to detail requisition made by the AO before passing order dated 25-03-2024 which are as follows :

Acknowledgement Number : 142882421150324

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AACF8129E			
Name	INDO SPIRITS			
Financial Year	2021-22			
Assessment Year	2022-23			
Proceeding Name	Assessment Proceeding u/s 143(3)			
Notice/Communication Reference ID	100076537638			
Notice Section	143(3)			
Description	[ITBA]Show Cause Notice for Proceedings u/s 143(3)of Income Tax Act 1961.			
Notice Issue Date	13-Mar-2024			
Due Date for Submission	13-Mar-2024			
Communication Sent date				
Document Reference ID	ITBA/AST/F/143(3)(SCN)/2023-24/1062558338(1)			
RESPONSE SUBMITTED				
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Document Reference ID	ITBA/AST/F/143(3)(SCN)/2023-24/1062558338(1)			
RESPONSE SUBMITTED				
Remarks	Sir in continuation of our previous submission we submit as under: Further we attach the Invoices and Bank Statements highlighting the payment to the people mentioned as Employees in point 4.3 in the SCN issued by your good office on S.No 3,9 and 26. They were not the employees of the firm but service providers as mentioned in the invoices. We submit TDS Certificates, Ledgers , Invoices and Bank Statements highlighting the payments as Annexure 16 Thankyou			
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RESPONSE SUBMITTED				
Remarks	Sir in continuation of our previous submission we submit as under:			
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3	Ram Sagar Yadav Invoices.pdf	Annexure 9	198057	8d4d4d90af93f3ddae7b592b096a198c800617e8cef9d04cd996c938099b237e9

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**Submission before the AO vide dated 19-03-2024 as under :-**

Acknowledgement Number : 146884521190324

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AACF8129E			
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RESPONSE SUBMITTED				
Remarks	Main As informed by your good office that the earlier submissions are not reflecting at your portal. We submit the submissions again on your record:			
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11	GSTR3B_July_NIL.pdf	A5 GST Returns	34505	221d851e57fef66057210d59b5b7227cbc1f64dc7c681792c5cf9332eda71143
12	GSTR3B_September_NIL.pdf	A5 GST Returns	34489	ce40c40cbb660665efb58185fa967a8ad6e2b2d04164aa5a4358b6a9c14a981c
13	GSTR3B_October_NIL.pdf	A5 GST Returns	34661	c7e8eb8721f4d12e02dcab68439590d0b3d1560ff06c8da4a012c39705da3f23
14	GSTR3B_07AACF18129E1ZL112021.pdf	A5 GST Returns	34827	3bdd2a1bff6c2d2a5ccb2a26dbf1abd82d834aa247b0600aee6204e1305a1229
15	GSTR3B_07AACF1812	A5 GST Returns	34907	14509879ade4bf798

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	9E1ZL_122021.pdf			f6e6fbfc8472f6a37eb9c72b97813975d59b26183f40cd3
16	GSTR3B_07AACF1812 A5 GST Returns 9E1ZL_012022.pdf		34875	a14a647879fd2b318ced2ee4678868d6ba81c63114e05900e9dbea824bec9606
17	GSTR3B_07AACF1812 A5 GST Returns 9E1ZL_072022.pdf		34911	7c25a081dbdd4e9b171f8dbd5ac8de6fcf6453523833e3f9ac1af3e959219154
18	GSTR3B_07AACF1812 A5 GST Returns 9E1ZL_032022.pdf		34978	7cff8d3a225099f2bd5a49ea475644c36a5fc3bffcfcba772e3f40323815cda8
19	A6 Popular Spirits_Ledger.pdf	A6 and A7	1182426	b2dde9918d491d92c729e34182e91d36e0528b4a64d64be06c19864a5a279e7e
20	A7 Partywise Sale and TCS.pdf	A6 and A7	62611	7a560da0a9c3ae41400146662f0ea1565c7f0a2cd16efb4cbef952179fec0922
21	1.ITR-V.pdf	A 7	268066	5c5c194fa262bc46a248079e064079c55c185d77efc9425763c4ad4135a2baa6
22	2.IS Audited P&L, BS.pdf	A 7	311371	ac5da1936650e36fe40b75afa4b15fbb2a5612ff6d59b6bb71f ebb95d325f4ae
23	3.TAR.pdf	A7	1557243	77558a760d8617c0834e220cf8ae7075cfa57d20f6439b287d7bffbe40d74aa9
24	2.Notes to Accounts(IndoSpirit).pdf	A7	833004	3e64be542be1731276e1b85dfdaee45f884a54c2502989a73fca417bdf7dfb93
25	GSTR3B_August_NIL .pdf	A5 GST Returns	34439	fc7edb7023de7ec15247e6d55c116c37756a49f03c0dfcc51864c6b5d5a76939
26	A6 Adharv Ent_Ledger_.pdf	A6 Ledger	1305686	12b085043a5f5c9911ed06e5b2f8d0ff15

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27	A6Khao Gali_Ledger.pdf	A6 Ledger	3213919	951ec025e7db6a80379a7209ec43108e9c816268b7836f00b8c5f37f558728f5
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Acknowledgement Number : 147042611190324

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AACR18129E			
Name	INDO SPIRITS			
Financial Year	2021-22			
Assessment Year	2022-23			
Proceeding Name	Assessment Proceeding u/s 143(3)			
Notice/Communication Reference ID	100076537638			
Notice Section	143(3)			
Description	[ITBA]Show Cause Notice for Proceedings u/s 143(3)of Income Tax Act 1961.			
Notice Issue Date	13-Mar-2024			
Due Date for Submission	15-Mar-2024			
Communication Sent date				
Document Reference ID	ITBA/AST/F/143(3)(SCN)/2023-24/1062558338(1)			
RESPONSE SUBMITTED				
Remarks	Mam As informed by your good office that the earlier submissions are not reflecting at your portal. We submit the submissions again on your record:			
Hash * Value Of Remarks	310dc5097e53cca95940bd1a8015cf315ac672972291e07a147c1af3eefd27e7			
SI No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
1	Sunil Kumar Invoices.pdf	Annexure 9	1908689	ae4342bc7d086081a303387af4961629c4c7721ef6bf3c9dbc6e2120876ae735
2	Yedav Contractor Invoices.pdf	Annexure 9	1292235	0c76297fb6d2e5e6ce7fef503781955c2ced025f75840ccbed27879898e5f492
3	Ramesh Invoices.pdf	Annexure 11	352752	0da600a64128dfddd5ee5ffed996eeb2cc548a8e5856e1dff79baecba3ba29

Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
4	Yadav Contractor_Highlighted Bank.pdf	Annexure 11	2837212	625994d06ad3d2b10114d9e91a6f07cf d1b0d26218fd2746 b9cdc55cc68ad39d
5	Ram Sagar Yadav_Ledger.pdf	Annexure 12	196340	5cf0cece69155f7599c6367ec1f75c11a b0b9f567be65f02c e0c1d5430137493
6	Sunil Kumar_Highlighted Bank.pdf	Annexure 11	2940648	231dbc0bea1cf56b85ec96c6de504c7b369c01ecdæcdd88 ea317149c9425c13
7	Ram Sagar Yadav_Highlighted Bank.pdf	Annexure 11	4020391	811449d3f003d4a736f4863ff61d495e6b fcde8a3ecd3b5ee77 66f9d7eac608d
8	Sunil Kumar_Ledger.pdf	Annexure 12	196549	421fe6624eb7dc0b66a394d74b6fbc61 94687927444307e9 2bc39846f66da492
9	Ramesh Contracore_Ledger.pdf	Annexure 12	187115	b5f3d40d544b68a5ad9aad7dc10bc50a 1301141e86225d6a 6d8f676840d17fd7
10	Yadav Contractor_Ledger.pdf	Annexure 12	202596	3831f4d4e0aa11afc dbd6494710f382ee 93e9fa5ee2c26359 ee167a183c71c10
11	ALBPR8011J_Q4_2022-23.pdf	Annexure 10	55183	c7a4112b86ba081f5fd657f6b5a33768 20b8c1e9581e53da 0e7a85d9390e86ce
12	IQGPK6761N_Q4_2022-23.pdf	Annexure 10	60222	096f00e94c99c2c18436de15dfe441de e51fac2832cad11e 60a9cb4484d6e619
13	CJPPK8197L_Q4_2022-23.pdf	Annexure 10	59435	1fa5a4c6f6b815a905eb37df4d263567 6c69074d49567ace 3d0211968e116ef5
14	AKJPY2021Q_Q4_2022-23.pdf	Annexure 10	59426	f5e678cf02273a238ff1f3ed8a7cb8718d d366bfdef90fdd7f 28edf731bba84
15	IQGPK6761N_Q3_2022-23.pdf	Annexure 10	54715	f21c9f073f3dccc4f9

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	2-23.pdf			8384db9e3a0e874e f57609020efe2124 5d04452244bc1c0
16	CJPPK8197L_Q3_202 2-23.pdf	Annexure 10	54448	2d69cb89cd102fa8 92afd8489e978e18 50fa4060d9444369 362b714c5bfa1363
17	AKJPY2021Q_Q3_20 22-23.pdf	Annexure 10	54440	6da0d842566256dc 5c9d48a995d960d6 9c2bd1770f113ebb a0e02dcbcc4db17
18	A8Master Data- Khoo Gali Restaurants Private Limited.pdf	Annexure 8	118521	2ac8186b814c976d 41d714a7ef72ef6f4 5c85e7f8c91ea611 d17011c4a737890
19	A8Master Data- Popular Spirits LLP.pdf	Annexure 8	98062	4a1a32095ebb43f9 1438f0dca11225a0 ec0dcdb2c9b0fb34d ac68442fc528d82
20	Ram Sagar Yadav Invoices.pdf	Annexure 9	198057	8d4d4d90af93f3dd a7b592b096a198c8 00617e8cef9d04cd 996c938099b237e9
21	Ram Sagar Yadav Invoices 2.pdf	Annexure 9	1655683	6a424dccc59059cbd 0fd7d6c12ff248eba e10539f213c65d815 dd597afd09f63
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e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AACR8129E			
Name	INDO SPIRITS			
Financial Year	2021-22			
Assessment Year	2022-23			
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Communication Sent date				
Document Reference ID	ITBA/AST/F/143(3)(SCN)/2023-24/1062558338(1)			
RESPONSE SUBMITTED				
Remarks	<p>Maam As informed by your good office that the earlier submissions are not reflecting at your portal. We submit the submissions again on your record. In continuation of our previous submission we submit as under: Further we attach the invoices and Bank Statements highlighting the payment to the people mentioned as Employees in point 4.3 in the SCN issued by your good office on S.No 3,9 and 26. They were not the employees of the firm but service providers as mentioned in the invoices. We submit TDS Certificates, Ledgers, Invoices and Bank Statements highlighting the payments as Annexure 16 Thankyou</p>			
Hash * Value Of Remarks	9ec50fd9c17ecbcd0dd813096a93a169fb04dab212d7f363cf15756a208382			
Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
1	A130ffer Letters.pdf	Annexure 13	3562292	53f353cd9ef5f0dab e04ed97a16b7fe27 567f20bdbd85c2cd 7e9587bf1a9ea67
2	Form_16_Employess .pdf	Annexure 14	1066379	c676510fd4a39f29a 20ed0113e93b0683 570d6af96a966d6e2

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				ff0158cc6bab55
3	Tapan Shahu_Ledger.pdf	Annexure 16	195556	9d519ceec64da159bc292addcdeb1281d2fa52ec15d161c34adb85cfe1bcaa097e
4	Tapan Shahu_Highlighted Bank.pdf	Annexure 16	1844875	22864b6ded2bb16684de1091af4a77ba7fdff30c592c5b6c265986ab07f96525
5	Vikas Kumar Invoices.pdf	Annexure 16	340435	94bfa1e0e6df45c1526befdf5421d8779129c3023b8c68a5d2357393d7bfa8d7
6	Vikas_Ledger.pdf	Annexure 16	195404	90b072824b971e0475c4938f2c80e061717a9927e8e0138ec91e41a73c04ad86
7	Vikas_Highlighted Bank.pdf	Annexure 16	2919090	55706a8bceda007dc75290e52c3184a4abc79ecb3176ba7fb95630120642814
8	Saddam Invoices.pdf	Annexure 16	942130	463dc47b05135d79e86dcd7b1a49cf44907fcd6cted3023b8315352307cbbf9c
9	Soddam_Ledger.pdf	Annexure 16	193499	2767effe53c3d80692be044e94597c6fa9697cc3d020d099256684bc18b6893e
10	Saddam_Highlighted Bank.pdf	Annexure 16	1836609	4d072cda44ce5da9d43f9de8b41411e3dc292bdf0cdb95c6d3ebb9a87b1dd1d9
11	Acknowledgement_4 11825041100723.pdf	Annexure 15	326769	93a071339ccb42e9320bd9b696ebfe561bd4b0b5281c29b3d67945a03a39f525
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In view of above it is observed that despite having details of documentary evidence including ledger accounts of the two parties and bank statement of the appellant reflecting the transaction with that two parties , Excise license of the

concerns the AO is unable to detect any specific defects either in the documents submitted before the AO or unable to prove and establish the sales to the said two parties being not genuine or unable to justify his/her observation and decision treating the sale of said two parties being bogus out of total sales of Rs. 519.18 Crores by bringing any cogent materials on records in support of treating the sale being bogus . Total sales with TCS etc as produced is reproduced as under :

INDO SPIRITS  
FY 2021-22  
Partywise Sale and TCS

NAME OF THE PARTIES	PAN No	SALES	VAT	TOTAL	TCS	GRAND TOTAL
ACE FINANCE CO.	AA7EAD18M	11,88,91,752	11,88,918	12,00,80,670	12,00,807	12,12,81,477
ADHARV ENTERPRISES	ABCFR660F	7,95,27,500	7,95,275	8,03,22,775	8,03,226	8,11,26,001
BHAGWATI TRANSFORMER CORP	AA7F8364L	57,23,13,819	57,23,136	57,80,36,955	57,80,370	57,87,17,325
BUDON (T-10) RETAIL PVT. LTD.	AA0CG804F	3,73,06,691	3,73,067	3,76,79,758	3,76,796	3,80,56,554
CHAMBER LEASING AND FINANCE PVT LTD	AA0CC0760C	29,64,70,151	29,64,703	29,94,34,853	29,94,350	29,94,39,903
CLIPTRACER - STEEL PVT. LTD.	AA0CG600E	30,54,71,000	30,54,711	30,85,25,711	30,85,256	30,95,79,967
ENDORSMENT DISTRIBUTION LTD.	AA0CY366L	4,83,40,904	48,13,613	4,35,27,291	4,35,273	4,39,62,564
ISN INFOTECH LLP	AAJF6731F	34,17,07,396	34,17,074	34,51,24,470	34,51,245	34,85,75,714
SHAG GULI RESTAURANTS PRIVATE LIMITED	AA0C0009A	51,40,28,940	51,40,285	51,91,69,225	51,91,711	52,43,60,936
MAGRONTA AGRO BASIS PVT. LTD.	AA0C0601G	8,29,40,812	8,29,409	8,37,70,221	8,37,704	8,46,07,925
MILLENNIUM INFRAENGINEERS PRIVATE LIMITED	AA0C0708L	20,78,11,152	20,78,112	20,98,89,264	20,98,903	21,19,88,167
MULTICITY HOSPITALITIES LLP	ABCF0609G	13,56,08,352	13,56,086	13,71,12,467	13,71,126	13,84,83,594
NOVA GARMENTS PRIVATE LIMITED	AA0C0673D	13,54,90,807	13,54,906	13,68,45,713	13,68,457	13,82,14,170
ORGANOID - ECOSYSTEMS PVT LTD	AA4C0006L	9,59,90,487	9,59,903	9,69,47,402	9,69,474	9,79,16,876
ORGEN APPLIANCES PVT. LTD.	AA4C0007F	49,54,99,114	49,54,991	50,04,54,105	50,04,541	50,54,58,646
PATHWAY HR SOLUTIONS PVT LTD	AA1C0904E	27,93,62,540	27,93,623	28,21,56,163	28,21,562	28,49,77,725
POPULAR SPIRITS LLP	AA7F0166C	25,49,17,113	25,49,172	25,74,66,285	25,74,664	26,00,40,949
PARSH MARKETING PVT. LTD.	AAFC0700F	23,51,38,039	23,51,380	23,74,89,419	23,74,894	23,98,64,313
SABIRI INDUSTRIES PVT. LTD.	AA7C0607F	14,23,01,392	14,23,013	14,37,24,405	14,37,245	14,51,61,650
SARVYA TECHNOLOGIES PVT. LTD.	AA1C0607G	16,10,13,118	16,10,131	16,26,23,249	16,26,233	16,42,49,482
SHALAKHTRA CONTRACTORS (I) LIMITED	AA1C0906C	11,61,38,459	11,61,383	11,72,99,842	11,72,999	11,84,72,841
TRIDENT CHEMIPHAR LIMITED	AA8F0406E	17,63,01,647	17,63,016	17,80,64,663	17,80,647	18,03,55,310
UNIVERSAL DISTRIBUTORS	AA4F0147G	39,20,36,370	39,20,364	39,59,56,734	39,59,567	40,09,16,301
<b>Total</b>		<b>5,19,18,82,867</b>	<b>5,19,18,862</b>	<b>5,24,38,01,699</b>	<b>5,24,38,094</b>	<b>5,29,62,11,793</b>

I find the AO inappropriately and arbitrarily made the addition of Rs. 33.77 Crores u/s 68 in the hands of the appellant based on the information of not filing the return by third parties without making any individual enquiry in this regard . The AO

has found amount credited in the accounts of the appellant but turned down the appellant's statement of genuine sale without bringing any cogent materials contrary to the appellant in support of treating unexplained cash credit .

Therefore I find merit in the contention of the appellant in as much as it is stated that appellant having in no manner control over the affairs of the two entities mentioned above , if penalized by making an addition merely on the basis of non-filing of Income Tax return by the third party entities , is against the principle of natural justice .

In view of above considering the entire conspectus of the case , in the given facts and circumstances of the case and also looking to the fact that no speaking order, bringing any cogent material on record contrary to the appellant's materials , has been passed considering the detail submission of the appellant by the Assessing Officer in relation to the addition of Rs. 33.77 Crores under section 68 of the Act , I find infirmity in the order of the AO and resultantly, I have no hesitation in holding that the impugned order of the AO dated 25-03-2024 is not based on apropos consideration of facts and law and hence the same warrant interference. Therefore I am of opinion that AO's decision of determining income after addition of Rs 33.77 crores invoking section 68 for unexplained cash credit is not justified and not in accordance with law. Accordingly **impugned addition stand deleted**. The grounds in this regard are **allowed**

**Appellant's Contentions and Submissions regarding 5<sup>th</sup> ground of appeal:**

**In response to the above the assessee submits that:**

The Ld. AO during the assessment proceedings have made additions of Sale transactions done by the appellant of Rs. 33,77,88,969.

The appellant would like to bring your kind attention to the fact that in relation to the sale transactions the appellant has already duly filed the VAT returns for Q3 and Q4, and the said VAT returns also duly captures the aforesaid sales made to the two entities, the appellant has also duly deducted TCS under section 206C of Income Tax Act 1961 on the aforesaid sales amount, and the appellant has also made GST Return compliances as per the relevant law and reported the said sale of Liquor as Exempt sale in the GST Returns filed on records. (Copy of DVAT-2B for the relevant assessment year is attached as **Annexure-3**). (Copy of the TCS Certificate issued by the appellant to the said two companies for the TCS deduced on Sale of Liquor is attached as **Annexure-4**). (Copy of GST Returns filed by the appellant is attached as **Annexure-5**). (The Ledger accounts of the above-mentioned parties in the Books of accounts of appellant is attached as **Annexure-6**).

The appellant further submits that the aforesaid sales figures are duly accounted for and taken into consideration by the appellant in the figure of total sales in its books of account, and financials for the relevant assessment

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year. Copy of Financials and ITR-V along with Computation of Income of the appellant and party wise details of sale done by the appellant is being attached with this reply as Annexure-7


The appellant is a tax compliant assessee and has been regularly paying all the Taxes due on it. The sale transaction mentioned above have been duly accounted while filing Income Tax Returns, Excise and DVAT Returns. We have on records submitted all the sale Invoices, TCS certificates, KYC documents, Transport permit and Ledger confirmations etc.

This is against the law of Natural Justice and same Income cannot be taxed twice in the hands of the appellant. The Sale transactions made by the appellant have already been taxed as per Income Tax Act 1961 once when it filed its Income tax return and it is again added in the Income of the appellant just because the customers have not filed their income tax returns.

In reference to the aforesaid submissions the appellant would also like to place reliance on various judgements wherein the below stated has been held:

- ITAT Delhi Bench 'G', New Delhi held in the case of DCIT, Central Circle 29, New Delhi Vs. Subhash Chand Gupta that:

*The applicant had further stated that the sales made by him are genuine sales, the payments in respect of the sales had been received via banking channels and has been duly recorded in the books of the appellant. He has also stated that the appellant has paid VAT on the sales which was 20% of the sales and submitted VAT returns reconciling the same with the sales. The appellant has also submitted various case laws in his support stating that the sales cannot be treated as bogus unless the purchases or stocks shown by him are found to be unexplained. The Assessing Officer did not point out any mistake in the purchases or in the inventory or in the VAT return filed by the appellant I.T.A. No. 1548/Del/2022 and therefore, the sale shown by him in the P&L account should not have been treated as bogus sales. I am of the opinion that the sales cannot be added under section 68 unless they are proved as bogus on the basis of some reliable evidence. [I.T.A No.1548/Del/2022]*

For INDO 

- Hon'ble Delhi High Court of Delhi in the matter of CIT v/s Kailash Jewellery House (ITA 613/2010)
- ITAT Bench 'B', Ahmedabad held in the case of Shree Sanand Textiles Industries Limited Vs. DCIT(OSD), Circle-8, Ahmedabad. [I.T.A No.995/Ahd/2014].

**AO's Observation & decision in assessment order :** As per previous reproduction of assessment order.

**Decision :** I have carefully considered the submission made by the appellant as above , the facts of the case as well as gone through the observation and findings of the AO 's assessment order . I find from the computation of income under para 9 Table of Variation of assessment order started by the AO taking Income as per return Income filed as Rs. 25.58 Crores . It is observed from the record as well as from the submission of the appellant that the aforesaid sale to two entities were duly accounted for and taken into consideration in the figure of total sales so as to reach returned income of Rs. 25.58 Crores in its books of accounts and financials for the relevant assessment year . Therefore I find merit in the contention of the appellant in as much as it is stated that after taking sales to said two parties on gross basis while computation of returned income of Rs. 25-.58 crores , again addition of Rs. 33.77 crores of sales to two parties leads to double taxation over the same sale amount . Accordingly I find infirmity in the order of the AO and resultantly, I have no hesitation in holding that the impugned order of the AO dated 25-03-2024 is not based on apropos consideration of facts and law in as much as the two parties having filed their return at least in the preceding year , A. Y 2021-22 vide dated 24-12-2021 via Acknowledgement No. 393009380241221 by Popular

Spirit LLP and vide dated 13-03-2022 via Acknowledgement No. 341535790130322 by Adharv Enterprises and hence the same warrant interference. Therefore I am of opinion that AO's decision of determining income after addition of Rs 33.77 crores again after taking into consideration of returned income of Rs. 25.58 Crores is not justified and not in accordance with law. Accordingly **impugned addition stand deleted**. The ground in this regard is **allowed**

6. We have given our thoughtful consideration to the Revenue's and the assessee's respective vehement submissions. We wish to reiterate here that the assessee has *prima facie* proved its onus of having realized/received the corresponding sales involving M/s. Popular Spirits LLP and M/s. Adharv Enterprises in the lower appellate discussion. The fact also remains that possibility of some discrepancy in such a huge turnover and sales could not be altogether denied as well since the same had not been proved to the entire satisfaction of the Assessing Officer as well. Be that as it may, we are of the considered view in this backdrop that a further *lumpsum* addition of Rs.20 lakhs only in the assessee's hands would cover all of its shortfalls with a rider that the same shall not be treated as a precedent. The learned CIT(A)/NFAC's lower

appellate discussions and findings are revived to this limited extent. Necessary computation shall follow as per law.

7. This Revenue's appeal is partly allowed.

***Order pronounced in the open court on 27<sup>th</sup> January, 2026***

***Sd/-***  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 2<sup>nd</sup> March, 2026.

*RK/-*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi