

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

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1103/Bang/2025
Assessment Year : 2017-18

Shri Ramzan Mulla, Shop No. 18, New Charandas Electricals & Engineers, CMC Complex, Opp. Datri Masjid, Bagalkot Road, Vijayapura, Karnataka – 586 101. PAN: AKRPM4830D	Vs.	The Income Tax Officer, Ward – 2, Bijapur.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Jamuna, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate, Standing Counsel for Revenue

Date of Hearing	:	03-12-2025
Date of Pronouncement	:	03-03-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 18/11/2024 in respect of the A.Y. 2017-18 and raised the following grounds:

“GROUNDS OF APPEAL:

*2.1 Addition of Rs.20,99,000/- as Unexplained Credit:
The learned Assessing Officer (AO) made an addition of Rs.20,99,000/- as unexplained credit under Section 69A of the Income Tax Act, 1961,*

without adequately considering the facts and evidence provided by the appellant.

- *Section 69A pertains to unexplained money, wherein if an assessee is found to be in possession of money, bullion, jewellery, or other valuable articles that are not recorded in the books of accounts (if maintained) and the assessee fails to provide a satisfactory explanation regarding the source of such assets, the amount may be deemed as income.*
- *In the present case, the appellant had furnished documentary evidence, including bank statements, transaction details, and explanations for each credit entry. However, the AO dismissed these explanations summarily, without conducting a proper inquiry or verification.*
- *The Assessing Officer's approach contravened the established legal principle that, once the appellant has satisfactorily discharged the primary onus of providing a reasonable explanation, the burden shifts to the Revenue to refute the appellant's claim with substantive evidence.*

2.2 Arbitrary Treatment of Business Deposits as Income: The Assessing Officer incorrectly treated every cash deposit in the appellant's bank account as income, overlooking the business nature of transactions amounting to Rs.8,73,000/-, which were supported by VAT returns and relevant documents.

- *The appellant operates a business where cash transactions are routine, and deposits in the bank account represent business receipts and not unexplained income.*
- *The submitted VAT returns unequivocally establish a clear correlation between the cash deposits and the reported sales, substantiating that the deposits represent bona fide business receipts.*
- *By disregarding this evidence, the Assessing Officer adopted an arbitrary approach, demonstrating a failure to distinguish between income and turnover,*

thereby leading to an unwarranted and inequitable inflation of the taxable income.

- *Additionally, it is a settled position in law that business deposits duly recorded in statutory returns cannot be treated as unexplained income without concrete evidence to the contrary.*

2.3 Rejection of Source of Rs.12,26,000/- Received from Relatives:

The Assessing Officer unjustifiably rejected the source of Rs.12,26,000/- received from five relatives, despite the submission of confirmation letters and affidavits during assessment proceedings.

- *The appellant provided affidavits from the relatives affirming the transactions along with their PAN details and income proof, thereby establishing the genuineness, creditworthiness, and identity of the transactions*
- *The Assessing Officer did not identify any discrepancies in the submitted documents, nor did they pursue additional clarification from the relatives through summons or investigative inquiries.*
- *The rejection of the explanation without valid reasons amounts to a violation of principles of natural justice, where an opportunity to explain or substantiate the claim was not afforded properly to the appellant.*
- *The appellant relied on the Hon'ble Supreme Court's ruling in CIT vs. Orissa Corporation Pvt. Ltd. [1986] 159 ITR 78 (SC), where it was held that if the assessee has provided the identity and the source, the burden shifts to the department to disprove the claim.*

2.4 Misapplication of Section 69A under Presumptive Taxation:

The Assessing Officer's addition under Section 69A is legally unsustainable as the appellant had opted for presumptive taxation under Section 44AD, where maintaining detailed books of accounts is not mandatory.

- *Under Section 44AD, an eligible assessee declaring income on a presumptive basis (8% of*

gross receipts) is not required to maintain books of accounts as per Section 44AA or get them audited under Section 44AB.

- *The Punjab and Haryana High Court, in CIT vs. Surinder Pal Anand [2010] 121, ruled that once income is declared under presumptive taxation, individual transactions (like cash deposits) forming part of gross receipts need not be explained separately.*
- *By invoking Section 69A, the AO ignored the specific relief provided under the presumptive taxation scheme, contradicting established judicial precedents.*

2.5 Violation of Principles of Natural Justice:

The AO's rejection of the explanation for cash deposits received from relatives was arbitrary and violated principles of natural justice.

- *The principles of natural justice require that every party is given a fair opportunity to present their case and that the decision-making process is free from bias.*
- *In this case, despite submission of valid affidavits and confirmation letters, the AO did not provide a substantive rationale for disregarding them. There was also no opportunity given to the appellant to present further clarifications.*
- *Courts have consistently held that a mere suspicion or assumption cannot be the basis for rejecting evidence without concrete findings. The AO's decision lacks this foundational requirement of evidence-based assessment.*

2.6 Judicial Precedents:

- *In Gangaiah Nagaraju Vs ITO (ITAT Bangalore) ITA No. 1954/Bang/2024,*
- *The Income Tax Appellate Tribunal (ITAT) Bangalore remanded the matter back to the Assessing Officer for verification, indicating that if the deposits were indeed from business activities, the addition under Section 69A would not stand.*

- *By remanding the case, the ITAT reinforced the importance of procedural fairness and the necessity for a meticulous examination of evidence by the Assessing Officer.*
- *The Tribunal's order ensures that genuine business receipts are not inappropriately subjected to penal provisions, thereby upholding both the integrity of the tax assessment process and the taxpayer's right to a just evaluation of their income.*
- *In Shri Kokarre Prabhakara vs. ITO (ITAT Bangalore) ITA No. 1239/Bang/2019,*
 - *The ITAT Bangalore Bench held that when an assessee opts for the presumptive taxation scheme under Section 44AD of the Income Tax Act, the provisions of Section 68 regarding unexplained cash credits cannot be applied.*
 - *Under Section 44AD, eligible taxpayers, primarily small businesses, can declare income at a prescribed rate (usually 8% of turnover) without the need to maintain detailed books of accounts. Since the income is presumed and accepted on a notional basis, the Assessing Officer cannot question the source of individual cash credits or invoke Section 68, which typically requires an explanation for unexplained credits in the books.*
- *In Shri Krishnapandian Balaji vs. DCIT (ITAT Chennai) ITA No.: 358/CHNY/2021,*
 - *In light of the clarified source of the cash, the ITAT Chennai allowed the appeal filed by Shri Krishnapandian Balaji, providing resolution to the cash deposit issue raised by the Assessing Officer.*
 - *This decision sets a precedent for cases where individuals demonstrate the legitimate origins of cash deposits during critical periods, ensuring a fair and justified assessment.*
- *In Surinder Pal Anand vs. CIT [2010] (P&H High Court) ITA No. 156 of 2010, The Punjab & Haryana High Court ruled in favour of the assessee,*
 - *The ruling clarified that if a taxpayer opts for the presumptive taxation scheme under Section 44AD, and the gross receipts declared align with*

the cash deposits, the Income Tax Department cannot probe each deposit individually.

- *This judgment reinforced the objective of Section 44AD—to promote ease of doing business for small taxpayers by minimizing compliance requirements.*
- *In Sakina Ahmedali Kantavala Vs ITO (ITAT Ahmedabad), ITA No.41/Ahd/2024,*
 - *In a pertinent case, the Income Tax Appellate Tribunal (ITAT) Ahmedabad addressed the issue of cash deposits in joint bank accounts held with relatives during the demonetization period.*
 - *The assessee provided affidavits from relatives confirming that the deposited cash belonged to them.*
 - *The ITAT found merit in the assessee's explanation and deleted the addition made under Section 69A of the Income Tax Act.*
 - *This case underscores the importance of corroborative evidence, such as affidavits from relatives, in substantiating the source of cash deposits to counter additions under Section 69A.*
- *In Rotluanga Stephen vs. ITO (ITAT Kolkata), ITA Nos.46 & 47/GTY/2024,*
 - *The assessee faced an addition under Section 69A for cash deposits in a bank account. The assessee explained that the cash belonged to 'Seva Kendra,' a separate entity, and provided affidavits to support this claim.*
 - *The ITAT accepted the explanation and deleted the addition, emphasizing the importance of credible evidence in substantiating the source of cash deposits.*

3. PRAYER:

The appellant respectfully requests the Hon'ble tribunal authority to grant the following reliefs:

3.1. Delete the addition of Rs.20,99,000/- under Section 69A, as adequate evidence was provided to explain the source of funds.

3.2 Accept business deposits of Rs.8,73,000/- as legitimate business receipts, supported by VAT returns.

3.3 Accept Rs.12,26,000/- received from relatives, as the amount was substantiated with confirmation letters and affidavits.

3.4 Apply presumptive taxation under Section 44AD, avoiding the need to explain individual deposits under Section 69A. Uphold judicial precedents supporting the appellant's position under Section 44AD.

3.5 Restore principles of natural justice, as the Assessing Officer (AO) disregarded evidence without proper inquiry.”

2. The brief facts of the case are that the assessee is a proprietor of New Charandas Electricals & Engineers and trading in electronic and electrical items. The assessee filed his return of income on 05/08/2017. The assessee also filed his VAT returns declaring the sales effected by him. The assessee had opted to pay tax u/s. 44AD of the Act and on that basis, the return of income was filed by him. The case of the assessee was selected for complete scrutiny under CASS to verify the cash deposits made during the demonetisation period. Therefore notice u/s. 143(2) was issued and subsequently, notice u/s. 142(1) was also issued seeking to produce the books of accounts, bank statement details and cash deposit details. The assessee had not submitted any reply to the said notice. Therefore, the AO had proposed to complete the assessment u/s. 144 of the Act by treating the cash deposits made into the bank accounts as unexplained money u/s. 69A of the Act. At that time, the assessee filed his reply and informed that he is a small dealer and apart from the cash sales effected by him, the SBN of the assessee's close relatives who are all aged persons were also deposited into his accounts and also filed the details of the said deposits. The assessee had also produced the documentary evidences given by his relatives. The AO had not accepted the explanation for the reason that the assessee could not deposit the old currency notes of his relatives into his bank accounts. The AO also not accepted that the assessee could not have received cash from the purchasers during the demonetisation period in old currency notes since no one is authorised to accept the said notes. Therefore the AO had treated the said deposits as unexplained cash u/s. 69A of the Act.

3. As against the said order, the assessee filed an appeal before the Ld.CIT(A). The assessee had again explained the same facts and also submitted that he was filing his return of income u/s. 44AD of the Act and therefore he need not maintain the books of accounts. The assessee also submitted that during the said period, no online payment system was available and the public in the local paid the cash for sales effected by him and therefore the addition of cash deposit as unexplained money u/s. 69A is not correct. Along with the said reply, the assessee had furnished the copy of the income tax return, statement of income and the quarterly VAT returns. The Ld.CIT(A) after going through the documents including the affidavits filed by the relatives of the assessee had accepted the 50% of the cash deposits on the sales effected as genuine and confirmed the balance deposits as unexplained cash. The Ld.CIT(A) also had confirmed the cash deposits made by the assessee, received from their aged close relatives on the ground that the assessee cannot deposit others money into his bank account.

4. As against the said order, the present appeal has been filed by the assessee with a delay of 102 days.

5. The assessee submitted the medical records and prayed to condone the delay. Considering the fact that the assessee has some medical issues, we are inclined to condone the delay of 102 days and proceeded to decide the appeal on merits.

6. At the time of hearing, the Ld.AR submitted that the assessee is a small-time businessman and all his sales are by cash only and the customers who have paid the cash during the demonetisation period was properly deposited into his bank account and therefore it could not be concluded that it is an unexplained money. The Ld.AR further submitted that the assessee had furnished the supporting documents in respect of the submission that the assessee's aged relatives had given the SB notes for converting it into the new currency which was not disputed by the AO as

well as by the Ld.CIT(A) and therefore for depositing the said cash, the assessee had discharged his burden by producing the evidences and therefore addition u/s. 69A could not be made. The Ld.AR further submitted that the assessee had declared his sales turnover in the VAT returns which was accepted by the VAT department and therefore without having any contrary evidence, the present addition at 50% of the business income is without any basis and requires interference. The Ld.AR also filed a copy of the order of the Coordinate Bench of this Tribunal in the case of Shri Savitri Vasudeva Govinda Rao vs. ITO in ITA No. 2072/Bang/2024 dated 30/06/2025 by filing the same as additional documentary evidences.

7. The Ld.DR submitted that the reasons adduced by the assessee could not be relied on and therefore the additions confirmed by the Ld.CIT(A) has to be confirmed. The Ld.DR also relied on the order of the Hon'ble Delhi Tribunal in the case of Leela Devi vs. ITO in ITA No. 1423/Del/2020 dated 01.02.2021.

8. We have heard the arguments of both sides and perused the materials available on record.

9. From the facts as narrated above, the assessee is an individual and he is doing the small-time business of electronics and electricals in a mofussil area. During the assessment year, the assessee had also opted to pay tax u/s. 44AD of the Act. It means that the assessee need not necessarily maintain the books of accounts. Similarly, the assessee had recorded all the sales in his books of accounts and also the said sales were reported to the VAT department by filing the quarterly VAT returns. As seen from the sales register, the sales are properly recorded in the books of accounts and based on that, the sales turnover has been declared in the VAT returns. We have also perused the bank statements of State Bank of India, ICICI Bank and also the statements of the assessee's aged relatives by way of affidavits. From the above records produced by the assessee, it can be safely presumed that the assessee is having the source for the said cash deposits

during the demonetisation period. The only reason adduced by the AO is that during the demonetisation period, the assessee should not collect the cash in SB notes because the Government has not authorised him to collect the said cash in old currency. The AO had also not pointed out any discrepancies in the sworn affidavits by his close relatives about the monies in SBN handed over to the assessee for depositing it into his bank account. The reason given by the said relatives are that they do not have any accounts and also they are not able to visit the bank for exchanging the same into the new currency notes. Even the Ld.CIT(A) had not disputed these facts, but gave a finding that the relatives could not deposit the SBN into the account of the assessee and therefore not accepted the said reason as genuine.

10. Insofar as the business receipts of Rs. 8,73,000/- out of the total deposits of Rs. 20,99,000/-, the assessee had submitted the copies of the VAT return as well as the sales register and therefore, without any other evidence, the Ld.CIT(A) would not have confirmed the 50% of the deposits as unexplained money u/s. 69A of the Act. There is no logic in adopting 50% is from the business when the assessee was able to establish the genuineness of the cash deposits out of his business. The Ld.CIT(A) had also not relied on any evidences to show that the business income declared by the assessee is not correct except by saying that the VAT return during the demonetisation period shows an excess sales. In our view, it could not be a reason to doubt about the genuineness of the sale transactions which are all properly recorded in the sale register which are all not doubted by the AO while making the assessment. Therefore, the addition at 50% of the sales receipts of Rs. 8,73,000/- is without any basis and therefore we are setting aside the said addition made by the Ld.CIT(A) as undisclosed money u/s. 69A of the Act.

11. Insofar as the balance addition of Rs. 12,26,000/-, the assessee had explained right from the beginning that the deposits are the cash given by their relatives who are all aged persons who are all not having any bank

accounts. The finding of the AO as well as the Ld.CIT(A) are that the money belonged to others and therefore it could not be deposited into the account of the assessee. The said finding may be correct if the assessee was not able to substantiate the said claim by filing the required documents. In the present case, the assessee had produced affidavits given by the said relatives and also the reasons for handing over the cash to the assessee for depositing into his bank account. The said documents were perused by the AO as well as by the Ld.CIT(A) but no contrary evidence was placed to disbelieve the said submissions. Further, the authorities had not taken any steps to ascertain the genuineness of the said claim made by the assessee. The assessee had also explained that because of their old age, they are not able to visit the banks and deposit the SBN. The reason adduced by the assessee could not be simply brushed aside when there is no other material evidences before the AO or Ld.CIT(A).

12. We have also gone through the order of this Tribunal relied on by the Ld.AR in which the Tribunal had deleted the additions made by stating the very same reasons. We have also perused the SMC order of the Hon'ble Delhi Tribunal which was relied on by the Ld.DR. In the said order relied on by the Ld.DR, the facts are different. In the said case, the assessee had no details available with her and therefore the Tribunal had disbelieved the explanation offered by the assessee. In the present case, the assessee was able to substantiate his case that he is having business income as well as received SBN from their relatives for depositing it into his bank account. The assessee had also produced the sales register and the VAT returns in support of his case that the business income received by cash was deposited into his bank account during the demonetisation period. Similarly, in respect of the other deposits, the assessee had furnished the affidavits of his relatives which was not disputed by the revenue. In such circumstances, the order of the Hon'ble Delhi Tribunal cannot be cited as a precedent on the facts of the present case.

13. In any event, the assessee had deposited the SBN during the time granted by the Government and if he has received SB notes from the customers, it could not be termed as unexplained money u/s. 69A of the Act. No doubt, the SB notes has no value after the date notified by the Government but it does not mean that the said amounts would become an unexplained money automatically. When the assessee was able to correlate sales and the cash deposits and also the source for the other cash deposits, burden shifts on the revenue to disprove the said facts. In fact, the assessee had filed the statutory VAT returns which was also accepted by the said department of the State Government and in that circumstances, without having any other material evidence, the revenue cannot claim the said deposits as unexplained money u/s. 69A of the Act. From the findings of the AO as well as the Ld.CIT(A), the additions were confirmed merely on surmise and not based on any material evidence. In such circumstances, we have no hesitation to allow the appeal filed by the assessee by setting aside the order of the AO as well as the Ld.CIT(A).

14. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 03rd March, 2026.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 03rd March, 2026.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore