

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

**BEFORE SH. SUDHIR KUMAR, JUDICIAL MEMBER  
&  
SH. MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.4722/DEL/2025  
Assessment Year: 2017-18

<b>Ambe Marble C/o B-50 LGF South Extension Part-II, New Delhi Pan NO. ABBFA5852G (APPELLANT)</b>	<b>Vs</b>	<b>ITO Ward 36(1) Delhi New Delhi (RESPONDENT)</b>
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Appellant by	Sh. Shantanu Jain, Adv
Respondent by	Sh.Rajesh Kumar Dhanesta,Sr..DR

Date of hearing:	16/02/2026
Date of Pronouncement:	18/03/2026

**ORDER**

**PER SUDHIR KUMAR, JM:**

This appeal by the assessee is directed against the order of National Faceless Appeal Centre (In short "NFAC") Delhi vide order dated 25-06-2025 pertaining to A.Y. 2017-18 and arises out of the assessment order dated 27-12-2019 u/s 143(3) of the Income Tax Act 1961 (in short "the Act").

2. The assessee has raised the following grounds in appeal:

1. *That having regard to the facts and circumstances of the case, the Ld. CIT(A) has grossly erred in law and on facts in confirming*

*the addition of Rs.47,50,000/- on account of cash deposited during the demonetization period during the year by recording incorrect facts and making irrelevant observations. Therefore, the additions made as such is liable to be deleted.*

*2. That having regard to the facts and circumstances of the case, the Ld. CIT(A) has grossly erred in law and on facts in not appreciating the material documents placed on record during the proceedings which relevant for the present case controversy.*

*3. That having regard to the facts and circumstances of the case, the Ld. lower authorities has grossly erred in law or on facts in alleging that no documentary evidences has been submitted whereas, the Appellant has filed the documentary evidences such as VAT returns Cash Book, Confirmation, Stock details month wise purchase and sale details etc. to substantiate the sales given during the year out of which cash was deposited in bank accounts during demonization period.*

*4. That having regard to the facts and circumstances of the case, the Ld. lower authorities has grossly erred in law or on facts in making addition on account of cash deposited in bank account without rejecting the books of account.*

*5. That having regard to the facts and circumstances of the case, the Ld. lower authorities has grossly erred in law or on facts in doubting the cash sales disclosed in books of accounts of the appellant which were duly audited by the independent auditor.*

*6. That having regard to the facts and circumstances of the case, the Ld. lower authorities has grossly erred in law or on facts in affirming the addition made by the l.d. AO on sole ground of*

*comparison of cash sales and cash deposits during the demonetization period with that of the preceding year without considering, the fact that the preceding year i.e. FY 2015-16 was a first year of appellant's business. Therefore, such comparison itself is non-est in law.*

*7. That having regard to the facts and circumstances of the case, the Ld. lower authorities has grossly erred in law or on facts invoking the provisions of section 68/69 of the Act which cannot be applied in respect of the income which is already being taxed and amounts to a double taxation.*

*8. That having regard to the facts and circumstances of the case, the Ld. lower authorities has grossly erred in law or on facts in making additions on assumption and presumption basis while ignoring the cogent and corroborative evidences on record.*

*9. That having regard to the facts and circumstances of the case, the Ld. Lower authorities has grossly erred in law or on facts erred invoking the section 115BBE of the Act which is not applicable for the year under consideration.*

*10. The Appellant craves leave for adducing necessary evidence, amendments modifications and explanations including written one to the aforesaid grounds and also additional grounds in the course of hearing of the appellate proceedings.*

3. The brief facts of the case are that the assessee's firms was engaged in the business of wholesale and trading of marble and tiles under the name and style of M/s Ambe Marble during the year under consideration. The assessee firm is a partnership firm constituted by two partners namely Mr. Vijay Kumar and

Mr. Amit Kumar Chauhan. The assessee has filed its return of income on 01-11-2017 at an income of Rs.3,29,580/-. The case of the assessee was selected for scrutiny under CASS. Notice u/s 143(2) of the Act dated 16-08-2018 was issued to the assessee. Again notice u/s 142(1) of the Act along with questionnaire was issued to the assessee. According to AO the assessee has deposited of Rs. 47,50,000/- during the demonetization period. The Assessing Officer completed the assessment after making the addition of Rs.47,50,000/- under section 68 of the Act.

4. Aggrieved the order of the AO the assessee filed the appeal before the Ld. NFAC who vide his order dated 25-06-2025 dismissed the appeal of the assessee. The Ld. NFAC has observed in order as under:

*6.3 I have gone through the grounds of appeal, assessment order as well as the appellant submissions. It is submitted by the appellant that the nature of cash deposited is nothing but admitted cash sales made by the appellant during the year under consideration and out of permissible cash collection from the customers. However, the appellant has not filed any documentary evidence in this regard. It neither filed the list of persons from whom the cash has been collected during the financial year 2016-17 relevant to the A.Y.2017-18 to prove that the cash deposited in the bank account are nothing but collections. It is correctly held by AO that the assessee failed to discharge the onus vested on him by not filing confirmations other documentary evidence in support of the claim that the cash includes opening balance*

*and it received cash from the other parties being customers in the business. It was submitted that the appellant had withdrawn cash immediate before demonetization and the withdrawal were re-deposited, which is not reliable. Since the appellant had withdrawn the cash, the appellant needs to establish the same by way of cash book. However, the appellant had not filed any documentary evidence towards the sources of the cash. The main reason for selection was cash deposit during the demonetization period. By way of statement of facts, the appellant submitted that the cash which was with him of cash received from the customers. However, the assessee neither submitted any information along with documentary evidences as called for till date nor asked any adjournment. It is clearly established that the appellant has not having any explanation in this regard.*

*6.3.1 In the appellant proceedings, burden of proof lies on the appellant to prove that the findings of the AO are incorrect. If the appellant fails to disprove or rebut with cogent evidence such facts and findings, no interference is required against the assessment order. In this case, the appellant chose not to avail several opportunities in appellate proceedings, which entails conclusion that he had no evidence or say or explanation against the order of the AO. In case of tax evasion sometimes compliance is more detrimental than non-compliance because compliance can lead to more investigation or more points to be explained whereas non-compliance lead to mere penalty or ex-parte*

*decision on the basis of available material only. It also brightens chance against levy of concealment penalty. Ex-parte assessment /other order have its own inherent limitations as to its scope and extent. Hence, the appellant should not be allowed to be enriched or benefited unjustly for an act of his own wrongs, i.e. non-compliance.*

*6.3.2. Ongoing through the above extract from assessment order which is self- explanatory. Appellant has only stated that the amount of Rs.47,50,000/- was belongs to sales. It is necessary to establish that the assessee has duly recorded its books of account the transactions of collections of money as well as deposits made in to bank account. Under the circumstances and in view of the above observations, the additions of Rs.47,50,000/made by the AO is confirmed as the source of which remain unexplained and unsubstantiated. Ground No. 2 raised in this appeal is dismissed.*

4. Being aggrieved the order of the Ld. NFAC the assessee is in appeal before the Tribunal.

5. The ld. AR of the assessee has submitted that the preceding year which is 2016-17 was the first year of business of the Assessee. The total cash sales ratio in both the year is similar. The Gross profit ratio and net profit ratio is similar. He further submitted that in in the month of October the cash sales was higher due to festival seasons. The assessee maintained proper book of account which are being subjected to audited, and filed during the proceedings. He also submitted that the ratio of total

cash sales and total cash deposits in the both years are similar. The assessee has given the chart in the written submission of the cash sales ratio and the cash deposit of the both years. The given chart reproduce as under:

The ratio of total cash sales and total cash deposits in both the years are similar:

A.Y.	Total Cash Sales	Total Cash deposits	Percentage of cash deposits
2016-17	10,60,616/-	10,20,000/-	96%
2017-18	57,87,549/-	53,55,000/-	92%

The total cash sales ratio in both the years is also similar:

A.Y.	Total Sales	Cash Sales	Percentage of cash sales
2016-17	29,39,723/-	10,60,616/-	36.08%
2017-18	1,60,13,542/-	57,87,549/-	36.14%

He further submitted that during the assessment proceedings, the assessee furnished all the relevant documents for kind perusal of the lower authorities as under:

- (i) Copy of Audited Balance Sheet along with the Profit & Loss account for the year ending 31-03-2017(Pg.101)
- (ii) Copy of the date wise chart of the sales (party Name, address TIN No. Invoices NO. Vat Tax Labour) made by the assess firm during the A.Y.2017-18(Pg.124-140)
- (iii) Copy of VAT and CST returns along with the revised returns for A.Y. 2017-18(Pg.141-315)
- (iv) Copy of cash book for A.Y.2017-18(Pg.317-368)

- (v) Copy of month wise sale made during the year under consideration (Pg.424)
- (vi) Copy of cash memos for period from 01-10-2016 to 08-11-2016(Pg.462-655)
- (vii) Copy of Chart of turnover and cash deposited in F.Y.2015-16 and 2016-17(Pg.794)
- (viii) Copy of chart of item wise and party wise sales along with the complete address and their PAN/TIN during the year under consideration (Pg.757-771)
- (ix) Copy of chart of cash sales made during F.Y. 2015-16 & 2016-17(pg.791)
- (x) Copy of month wise cash sales and cash deposited during the period from 01-04-2015 to 31-03-2016 (Pg.792)
- (xi) Copy of month wise cash sales and cash deposited during the period from 01-04-2016 to 31-03-2017 (Pg.793)
- (xii) Copy of month wise chart of the sales made during the year under consideration (Pg.795-810)
- (xiii) Copy of details of sundry Creditors (pg.369)
- (xiv) Copy of confirmation by the sundry creditors (Pg.375-381 & Pg.384-404)
- (xv) Copy of the date wise chart of the purchase (party Name, address TIN No. Invoices NO. Vat Tax Labour) made by the assess firm during the A.Y.2017-18(Pg.372-374)
- (xvi) Copy of month wise purchase made during the year under consideration (Pg.424)

(xvii) Copy of chart of item wise and party wise purchases along with the complete address and their PAN/TIN during the year under consideration(Pg. 744-756)

(xviii) Copy of month wise chart of the purchases made during the year under consideration (Pg.811-814)

Reliance is placed on the following decisions:

(i) Kulbhushan Sahtani vs. ITO in ITA NO. 4066/Del/2025

(ii) Sugriv Aggarwal vs. Income Tax Officer In ITA No. 144/Del/2023

(iii) S. Balaji Mech-Tech Private Ltd. vs. ITO in ITA No.556/Del/2024

(iv) Commissioner of Income Tax vs. Kailash Jewellery House In ITA No. 613/2010(High Court Delhi)

6. Ld. DR has submitted that the documents filed by the assessee was not found satisfactory by the AO. There was unusual and unexplained increase in cash sales before the demonetization period when it was compared to earlier year. It is true that books of account was not rejected by the AO, but the addition was made the unexplained cash deposit during the demonetization period. The audited books of account does not itself prove the genuineness and correctness of the cash sales. He further submitted that during the examination of the documents the AO found that total cash sales from April,2016 to September 2016 amounted to Rs.14,07,743/-. Whereas a sudden and substantial increase of Rs.40,72,781/- was found in the month of October, 2016. The assessee has failed to substantiate his claim before the lower authorities.

7. We have heard the parties and perused the material available on records. There is material substance in the submission made on behalf of the assessee that the addition was made without pointing out any defect in the books of account of the assessee. We observed that assessee has declared all the cash transactions in its books of account and merely because the cash deposits are more during the demonetization period, the addition cannot be made as the income from undisclosed sources. In this case the assessee has already declared the cash sales in its books of account and offers the explanation as cash sales, which the lower authorities has accepted it as regular business transactions because they have not rejected the books of account. Since the cash were already recorded and explained was submitted by the assessee, there was no opportunity for the Ld. NFAC to reject such explanation. The Assessing officer without doubted the documents, rejected the books and made the additions.

8. In the case of Commissioner of Income Tax vs. Kailash Jewellery House 2010(4) TMI 1070 Hon'ble High Court held that at where the sum of Rs.24,58,400/- was credited in the sale account and had ben duly included in the profit disclosed by the assessee in its return, the cash sales could not be treated as undisclosed income and no addition could be made.

9. In the case of DCIT, Central Circle 29, New Delhi vs. Subhash Chand Gupta 2023(5) TMI 1110 ITAT Delhi in ITA No. 1548/Del/2022 the CO-ordinate bench held that the sale cannot

be added u/s 68 unless they are proved as bogus on the basis of some reliable evidences.

10. The Co-ordinate Bench of ITAT in the case of S. Balaji Mech-Tech Private Ltd. Vs. ITO in ITA No. 556/Del/2024 has observed as under:

18. "Coming to the issue of stock movement and excess sales, we observed that the assessee has submitted relevant stock reconciliation and auditors report of stock movements and there is no negative stock movement which will indicate that the assessee has booked excess sales without there being proper purchases.

19. In our considered view, there are chances that during the demonetization period the regular customers may have choose to buy the spare parts and bearing by making payment by cash so that their excess SBN is transferred. We noticed that the credit sales has come down during this period and the sales of the assessee is more or less maintained during this period. Therefore, it shows that the changes in the patterns recorded in the sales are not abnormal.

20. Whether the recording of cash sales which is already declared in the books of account will attract the deeming provisions of sec.68 or 69A of Act. We observed that the assessee has declared all the cash transactions in its books of account and merely because the cash deposits are more during the demonetization period, whether the CIT(A) can invoke the provisions of section 69A of the Act. As per provisions of the section, it is necessary that the assessee be found with the money, the same is not recorded in the books accounts maintained by it for any source and not offers any explanation or Page such explanations are not found to be satisfactory to the AO. In this case, the assessee has already declared the cash sales in its books of account and offers the explanation as cash sales,

which the lower authorities has accepted it as regular business transactions because they have not rejected the book results and brought to tax the total sales declared by the assessee in its books. Since the cash were already recorded and explanation is already part of the book results, there is no avenue for the CIT(A) to reject such explanations. This expression "explanation is found not satisfactory to the AO" is purely relates to the money found with the assessee which are not recorded in the books of account. In this case, the above expression has no relevance since the assessee had already declared the cash sales in its books. In the similar situation, the coordinate bench has held in the case of J.R.Rice India (P) Ltd as under:

"At the cost of repetition, to the extent of sales made, the stock position is also correspondingly reduced by the assessee which goes to prove the genuineness of the claim of the assessee. On examination of the cash book of the assessee, it is found that the assessee had cash balance of Rs. 55.94 lakhs as on 8-11 2016, i.e., the date on which demonetization was announced, which sufficiently explains the source of deposit of Rs. 52.60 lakhs in specified bank notes. Apart from this, the assessee had duly furnished the month wise details of sales, month wise details of purchase, corresponding freight charges incurred month wise, month wise power and fuel expenses and month wise selling expenses in the form of rebate and discount. The assessee also furnished the quantitative details of goods month wise for rice, sugar, chana dal and wheat flour before the Assessing Officer. All these facts clearly go to prove the genuineness claim made by the assessee that cash deposits of Rs.52.60 lakhs has been made out of cash balance available with the assessee and, hence, there is

absolutely no case made out by the revenue for making addition under section 68."

11. In the present case the AO did not point out any defects in the books of account, no discrepancies were found in the stocks, sales and purchases and merely concluded that there are huge cash deposited in the bank account during the demonetization period. Therefore, we find no reason to doubt the cash sales made during the period of demonetization period. Accordingly the total cash deposit during the demonetization is held as out of the cash sales available with the assessee in books of account and therefore, no addition could be made on this account. Thus, we direct the AO to delete the addition. The appeal of the assessee is liable to be allowed.

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

Order pronounced in the open court on 18.03.2026.

**Sd/-**

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

\*SR BHATNAGGR\*

Date:- 18.03.2026

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**

**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI