

**IN THE INCOME TAX APPELLATE TRIBUNAL
"NAGPUR" BENCH, NAGPUR
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER
ITA No. 254/NAG/2025 (AY : 2017-18)**

(Physical hearing)

Narayan Bhagyachandra Khatri Flat No. SP-2/102, Streling Springdale Apartment, Raj Nagar, Nagpur, Maharashtra – 440013. [PAN: AACCG4441J]	Vs	ACIT, Amravati Circle, Amravati Aayakar Bhavan, Near DPS School, Saturna, Amravati, Maharashtra – 440006.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Mahavir Atal, CA
Revenue by	Shri Surjit Kumar Saha, Sr. DR
Date of hearing	25.02.2026
Date of pronouncement	26.03.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of Id. CIT(A)/NFAC, New Delhi dated 10.07.2024 for Assessment Year (A.Y.) 2017–18. The assessee has raised following grounds of appeal:

"1. THAT considering the facts of the case, the learned AO erred in rejecting the books of accounts and in making addition of Rs. 25,00,000/- on account of unexplained investments u/s 69 without considering the facts & submissions in proper perspective and on presumption & suspicion. The addition made by AO and confirmed by CIT (Appeals) is improper, unjust and deserves to be deleted.

2. THAT the assessment made at Rs 91,87,198/- as against returned income at Rs. 66,87,200/- and thereby raising additional demand at Rs 26,38.512/- is improper, unjust and deserves to be cancelled that charging of interest u/s 234A, 234B & u/s 234C totalling Rs 7,72,730/- is not correct & same be cancelled.

3. THAT any other ground/s that may be raised at the time of hearing"

2. Brief facts of the case are that assessee is individual and proprietor of D. N. Jewellers, engaged in the business of jewellery. The assessee filed his return of

income for A.Y. 2017-18 on 23.11.2017 declaring income of Rs. 66,87,200/-. The case was selected for scrutiny. During assessment, the assessing officer (AO) recorded that as per information available with the department, the assessee made cash deposit of Rs. 25,00,000/- in the form of Specified Bank Notes (SBN) in HDFC Bank and Rs. 2.12 crore in the form of SBN in Bank of Baroda. The assessing officer was of the view that cash deposit during demonetization period was abnormal. The AO issued show cause notice as to why such cash deposit should not be treated as unaccounted investment. The assessee filed his reply. In reply, the assessee explained that the assessee has not accepted SBN of Rs. 500/- or Rs. 1000/- after 08.11.2016. On 08.11.2016, there was a cash balance of Rs. 2.79 crore in his regular books of account. Out of the cash available, the assessee deposited cash in HDFC Bank and in Bank of Baroda. There is no unaccounted investment or unaccounted money. The assessee also prepared comparative chart of three years, that is one preceding year, current assessment year and one subsequent assessment year. The assessee explains that in 2016 Diwali was on 30.10.2016 that is just before the date of demonetization. Hence, there was little more sale upto 08.11.2016 comparative to preceding year. The increase in cash has to be considered with respect of increase in gross sales. All the sales of the assessee are fully supported with vouchers and accounted in the regular books of account. Books of account are audited. After demonetization period, the officials of Income tax Department visited assessee's premises and counted all the stocks, cash and verified the bills and vouchers. Print out of cash

book was also retained in the office of Additional Director of Investment for a long time for verification. No specific discrepancy was pointed out nor the assessee was asked to disclose any additional income. The reply of assessee was not accepted by AO. The assessing officer on the basis of details furnished by the assessee, recorded the month-wise cash sales deposited during the period from 01.04.2016 to 08.11.2016 in the following manner:

Month	Op. Cash Bal	Cash Receipt		Total	Cash deposited in Bank	Cash withdrawn from Bank	Closing cash in hand
		Sale	Receipt				
Apr-16	25,68,920	8,25,980	2,55,162	10,81,142	21,65,000	200000	13,97,812
May-16	13,97,812	8,90,968	9,74,009	18,64,977	7,10,000	70000	23,50,433
Jun-16	23,50,433	7,59,370	3,43,428	11,02,798	11,20,000	-	20,55,717
Jul-16	20,55,717	54,48,330	15,32,982	69,81,312	13,20,000	-	74,51,666
Aug-16	74,51,666	36,68,030	15,68,917	52,36,947	17,50,000	-	1,06,38,834
Sep-16	1,06,38,834	50,54,252	21,77,729	72,31,981	46,50,000	-	1,29,42,860
Oct-16	1,29,42,860	1,36,90,085	65,63,227	2,02,53,312	63,90,000	-	2,64,21,743
Nov-16 (upto 08.11)	2,64,21,743	13,56,905	11,68,624	25,25,529	8,00,000	-	2,79,67,923
		3,16,93,920	1,45,84,078	1,89,05,000	2,70,000		

3. After considering the aforesaid details, the Id. AO recorded that assessee received the cash of Rs. 65,63,227/- apart from the sale of Rs. 1.36 crore in October, 2016. In the month of November 2016, the cash receipt is Rs. 11,68,624/- against the sale of Rs. 13,56,905/- from 01.11.2016 to 08.11.2016. The AO was of the view that there is increase in the cash receipt, the assessee has deposited Rs. 2.75 crore till 16.11.2016 against the cash in hand of Rs. 2.79 crore. The Id. AO further recorded that assessee deposited Rs. 25,00,000/- in the form of SBN in HDFC Bank, out of total deposit of Rs. 35.60 lacs during the

whole year. The assessee also made cash withdrawal of Rs. 32.38 lacs, which shows that there is no precedent of cash deposit in this bank. Rs. 25,00,000/- was deposited on 15.11.2016 and was transferred through RTGS, to his own account in Bank of Baroda. Such act of assessee was unusual. On the basis of such observation, the AO disallowed Rs. 25,00,000/- by treating as unexplained investment under section 69 and tax the same under section 115BBE.

4. Aggrieved by the additions in the assessment order, the assessee filed appeal before Id. CIT(A). Before Id. CIT(A), the assessee again filed detailed written submission. The submissions of assessee are recorded in para 3 of order of Id. CIT(A). The assessee contended that cash deposit of Rs. 25,00,000/- in HDFC Bank are part of sale proceeds. Rs. 25,00,000/- is the only transaction of cash deposit in SBN in HDFC. The assessee also deposited cash in other bank accounts wherein there was heavy rush for cash deposit. The cash deposit in HDFC Bank was transferred to Bank of Baroda. The AO not doubted the cash deposit in Bank of Baroda. The assessee is in the business of gold and silver jewellery and maintaining regular books of account. All sales and purchases are duly recorded in the books of account. The books of assessee are audited. No discrepancies are found in the books of account. The flying squad of Income Tax Vigilance Department are also carried out a survey at the business premises of assessee. No discrepancies were found during such survey. The cash book of assessee was kept by vigilance branch at Saraf chamber of Nagpur for more than one year and thereafter it was returned without pointing out any discrepancies.

The cash deposits are part of cash balance of Rs. 2.79 crore as on 08.11.2016.

The assessee furnished a chart showing month-wise cash sales and cash deposit from 01.04.2016 to 08.11.2016, which has been recorded in para 10 of assessment order. There is no reason for making any addition of Rs. 25,00,000/-.

The assessee contended that addition is based only on presumption and without bringing any specific evidence on record as additions are liable to be deleted.

5. The Id. CIT(A) after considering the submission of assessee and the assessment order confirmed the action of AO as per his finding in para 5 of the impugned order. The Id. CIT(A) recorded that cash deposit during demonetization period is exceptionally high which was abnormal fact. The assessee has declared high opening cash in cash book in the months leading to demonetization month. The cash deposit of Rs. 2.75 crore till 16.11.2016 exhausted all the cash in hand. The cash deposit was immediately transferred to other account. The Id. CIT(A) also referred the decision of Kale Khan Mohammad Hanif vs CIT (1963) 50 ITR 1 (SC), Roshan Di Hatti vs CIT (1977) 107 ITR (SC) and SumatiDayal vs CIT 214 ITR 801 (SC) wherein it was held that nature of transaction has to be ascertained in the light of surrounding circumstances. On the basis of aforesaid observation, the Id. CIT(A) confirmed the action of Id. AO. Further, aggrieved the assessee has filed present appeal before Tribunal.
6. We have heard the submissions of learned Authorised Representative (Id. AR) of the assessee and the learned Senior Departmental Representative (Id. Sr. DR) for the Revenue. The Id. AR of the assessee submits that the Id. AO made addition

of Rs. 25,00,000/- by treating cash deposit in HDFC Bank as unexplained. All the cash deposits are part of sale proceeds which is duly recorded in the books of account. The assessee is carrying business of jewelry formore than 20 years. The books of assessee duly audited. The books result is accepted in all years. All purchases and sales are supported by bills and vouchers. Day do day stock book is maintained with quantitative tally. All details are verified in depth by the survey party. During assessment, the assessee furnished audit report, cash book, VAT returns with details on creditors. The assessee also produced books of account which were verified by AO. No discrepancy was pointed out by AO. The addition is solely based on suspicion as can be seen from observation of AO from the contents of assessment order itself. Section 69 is not applicable. The AO accepted that source of cash deposit is from cash sales, despite thattreated the cash deposit as unexplained investment by rejecting assessee's submissions of comparative increase in cash sales with regard to gross sales. It is not the case of AO that cash deposit is more than the sales; hence there is no question of unexplained investment. Addition on presumption is amount to double taxation. The observation of AO that cash deposit is increase exceptionally, comparing to earlier years is without considering the increase in the turnover in both the years. The turnover in this year is increased almost by 80%. The AO has accepted cash deposited bank of Baroda and doubted cash deposit in HDFC Bank only on the ground that it was subsequently transferred. The amount was transferred to assessee's own bank in Bank of Baroda. The account of HDFC Bank and Bank of

Bank of Baroda are regular business account, which has been declared in the return of return of income. The Id. AR of the assessee submits that the entire addition is liable to deleted. The Id. AR by showing chart of cash deposit from the month of April, 2016 to November, 2016 would submit that there is no abnormal cash deposit during demonetization period. It was an unforeseen situation for every business house and they have no option except to deposit SBN of Rs. 500/- and Rs. 1000/- in bank. To support his submissions, the Id AR of the assessee relied on the decision of Nagpur bench of Tribunal in Shri Omprakash Shankarlal Sharma Vs DCIT in ITA No. 156/Nag/2025 dated 27.05.2025.

7. On the other hand, the Id Sr DR for the revenue supported the order of AO and Id CIT(A). The Id Sr DR for the revenue submits that cash deposits during demonetization was abnormal. The AO has accepted the cash deposit in Bank of Baroda on the basis of cash flow statement. Once entire cash available as per cash book was deposited in bank of Baroda, the assessee left with no cash available for deposit in HDFC. Out of total cash in hand of Rs. 2.79 Crore, the AO has fairly accepted cash deposit of Rs. 2.75 Crore in Bank of Baroda.
8. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that the parties have locked their horn on the cash deposit of Rs. 25.00 lacs in HDFC Bank account during demonetization period. There is no dispute about the nature of business activities of the assessee. Similarly, the cash in hand as on the date of

demonetization is not disputed by the lower authorities. We find that while doubting the cash despite in HDFC the AO held that the assessee received cash of Rs. 65,63,227/- apart from the sale of Rs. 1.36 crore in October, 2016. In the month of November 2016, the cash receipt is Rs. 11,68,624/- against the sale of Rs. 13,56,905/- from 01.11.2016 to 08.11.2016. The AO was of the view that there is increase in the cash receipt; the assessee has deposited Rs. 2.75 crore till 16.11.2016 against the cash in hand of Rs. 2.79 crore. Further, the AO held that the assessee also made cash withdrawal of Rs. 32.38 lacs, which is unusual when the assessee was having cash in hand. Rs. 25,00,000/- was deposited on 15.11.2016 and was transferred through RTGS, to his own account in Bank of Baroda. The Id CIT(A) confirmed the action of AO by taking view that cash deposit during demonetization period is exceptionally high, which was abnormal fact. It was also held that the cash deposit of Rs. 2.75 crore till 16.11.2016 exhausted all the cash in hand. We find that entire cash deposit in bank of Baroda in the entire month was not in the form of SBN. SBNs were deposited only after 08.11.2016. As per contents of assessment order, which is bases on information that the assessee made cash despite in SBN in Bank of Baroda of Rs. 2.12 Crore.

9. We further find that the Id AR of the assessee made general submissions that sales just before demonetisation was increased due to local festivals and that books of assessee were verified by the survey team and that no infirmity was found in the books of assessee. On considering the entire facts and

circumstances of the case in hand we find certain discrepancies. The Id AR of the assessee failed clearly explaining, if the entire cash in hand was in the form of SBN only. Similarly, once the AO has accepted that there was cash in hand of Rs. 2.79 Crore, and out of which Rs. 2.75 Crore was deposited in Bank of Baroda, still the assessee was left with Rs. 4.00 lacs. Therefore, keeping in view such discrepancies and to avoid the possibility of revenue leakage 50% of cash deposit in HDFC bank is sustained and remaining 50% is directed to be deleted. To be more specific, the assessee is allowed relief of Rs.12.50 lacs.

10. So far as taxing of remaining addition is concerned, we find that Hon'ble Madras High Court in SMILE Micro Finance Limited Vs ACIT in WP No. 2078 of 2020 dated 19.11.2024 has held that provisions of section 115BBE is not applicable for AY 2017-18, and are applicable for subsequent assessment years. Hence, the AO is directed to tax the addition sustained by us as normal rate of tax applicable to the assessee. In the result, the ground of appeal raised by the assessee is partly allowed.

11. In the result, the appeal of assessee is partly allowed.

Order pronounced on 26/03/2026 as per Rule 34(5) of Income Tax

(Appellate Tribunal) Rules-1963

Sd/-

KHETTRA MOHAN ROY
ACCOUNTANT MEMBER

Nagpur: Dated: 26/03/2026
Biswajit

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

By order

Assistant Registrar
ITAT, Nagpur