

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “G”, DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT, MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL, MEMBER**

ITA No.8381/DEL/2025  
Assessment Year: 2017-18

<b>Deepak Agarwal 57, Pocket -27 Sector 24 Rohini North West Delhi- 110085 PAN No. ADIPA3864H</b>	<b>Vs.</b>	<b>Income Tax Officer, Ward 34(1) Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Abhishek Mathur Adv.
Respondent by	Sh. Manish Gupta, Sr. DR

Date of hearing:	19/03/2026
Date of Pronouncement:	19/03/2026

**ORDER**

**PER SUDHIR KUMAR, JUDICIAL MEMBER:**

This appeal by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC) Delhi [hereinafter referred to as “Ld. NFAC)”] vide order dated 01-12-2025 pertaining to A.Y. 2017-18 arising out the assessment order dated, 18-12-2019 u/s 143(3) of the Income-tax Act, 1961, (in short ‘the Act’).

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

1. *That the Hon'ble Commissioner of Income Tax (Appeals) has erred in the law as much as on the facts of the case in sustaining the addition of Rs.5,65,14,032/- made by the learned Assessing Officer with regards to the cash deposits made by the appellant in its book of accounts during the financial year under appeal by treating the same as alleged to be unexplained cash credits in the book of the appellant.*

2. *That the Hon'ble Commissioner of Income Tax (Appeals) has erred in the law as much as on the facts of the case in sustaining the addition of Rs.5,65,14,032/- without providing an adequate opportunity of being heard and without considering the request of adjournment filed by the appellant and thus, the appellate order passed by the Hon'ble Commissioner of Income Tax (Appeals) is liable to be quashed being in violation of the principle of natural justice.*

3. *That the Hon'ble Commissioner of Income Tax (Appeals) has erred in the law as much as on the facts of the case in sustaining the addition of Rs.5,65,14,032/- without appreciating the fact that the total cash deposit made by the appellant in his bank account during the year under appeal were only Rs.2,29,84,120/- (for which separate application u/s 154 of the Act have been filed) and not Rs.5,65,14,032/- and that out of the cash deposit of Rs.2,29,84,120/- cash deposited in old notes*

*during the demonetization period was only Rs.17,25,000/- which is comparable to the cash deposits made by the appellant in the preceding previous year and also with the preceding months of the financial under appeal.*

*4. That the Hon'ble Commissioner of Income Tax (Appeals) while sustaining the aforesaid addition of Rs.5,65,14,032/- as alleged to be explained cash credits have failed to appreciate the fact that the appellant is in the business of resale of ginger in Azadpur Mandi as Kacha Adhitya wherein most of the sale were in cash which have been accepted in past and that the cash deposits during the year under appeal were only out of cash sales and cash in hand available with the appellant. has erred in the law as much as on the facts of the case in sustaining the addition of Rs.5,65,14,032/-*

*5. That the Hon'ble Commissioner of Income Tax (Appeals) while sustaining the aforesaid addition of Rs.5,65,14,032/- have failed to appreciate the fact that due to the nature of business of the appellant, there have been regular cash deposits in the books accounts of the appellant not only during the demonetization period or in the months preceding or succeeding the demonetization period but also during the immediately preceding financial year and that the addition of Rs.5,65,14,032/- only on the basis of cash deposits made during demonetization being excessive as compared to the deposits in the previous periods*

*without bringing out any other adverse material is bad in law and liable to be deleted.*

*6. That the Hon'ble Commissioner of Income Tax (Appeals) has erred in the law as much as on the facts of the case by sustaining an addition of Rs.5,65,14,032/- in hurried and haste manner without appreciating the facts that the appellant during the course of assessment proceedings before the learned Assessing Officer had filed various documents and details in support of cash deposit of Rs.5,65,14,032/- made by the appellant during the demonetization period such as cash book, bank statements, comparative details of cash deposit made by the appellant during the year under appeal and in the preceding financial years etc. to which the learned Assessing Officer did not give any cognizance and thus the assessment order passed without giving adequate consideration to the reply of the appellant is against the principles of natural justice.*

*7. That the Hon'ble Commissioner of Income Tax (Appeals) while making the aforesaid addition of Rs.5,65,14,032/- have further failed to appreciate the fact that though the addition of Rs.5,65,14,032/- was made by the learned Assessing Officer by treating the sales and cash in hand balance as unexplained cash credits in the books maintained in the regular course of business but at the same time has accepted the trading results which is evident from the fact that the addition have been made only on the returned income which includes business income from the*

*aforsaid business of resale of ginger and thus the cash deposited in the bank account against sales cannot be treated as undisclosed income without brining any credible evidence in support of such allegation.*

*8. That the Hon'ble Commissioner of Income Tax (Appeals) has erred in the law as much as on the facts of the case in sustaining the addition of Rs.5,65,14,032/- u/s 68 of the Act without appreciating the facts that the addition has already resulted into double taxation of the same amount once in the form of cash sales already included in the business receipts as declared by the appellant and again by way of unexplained cash credit at higher rate specified u/s 115BBE of the Act.*

*9. That the Hon'ble Commissioner of Income Tax (Appeals) has erred in the law as much as on the facts of the case by sustaining an arbitrary addition by the learned Assessing Officer by invoking the provisions of section 68 of the Act and enlarging the ambit of section 68 of the Act to create a deeming fiction to tax and sum already created and offered to tax as income.*

*10. That the Hon'ble Commissioner of Income Tax (Appeals) has erred in sustaining an addition of the Act in the case of the appellant without appreciating that provisions of section 68 are not applicable in the facts and circumstances of the case since the Appellant has already accounted for income represented by cash deposited in the bank and therefore, same cannot be*

*considered to be undisclosed income in terms of Section 68 of the Act.*

*11. That the appellant assails his right to file additional ground(s) of appeal., if required and add or amend /delete any ground of appeal at the time of hearing of the appeal.*

3. The brief facts of the case are that the assessee filed his return of income on 08-03-2018 declaring total income of Rs.3,64,680/- which was duly processed under section 143(1) of the Act. The case was selected for Complete Scrutiny through CASS. Statuary notice u/s 143(2) of the Act was issued to the assessee on 16-08-2018 and duly served upon the assessee. Again, notice under section 142(1) of the Act along with questionnaire was issued to the assessee The Assessing Officer after considering the submission submitted by assessee completed the assessment after making the addition of Rs.5,65,14,032/-.

4 Aggrieved the order of the ld. AO, the assessee preferred the appeal before the Ld. NFAC who vide his order dated 01-12-2025 dismissed the appeal of the assessee.

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

6 Ld. AR of the assessee submitted that sufficient opportunity of being heard was not provided by the lower

authorities. He also submitted that the Ld. NFAC dismissed the appeal for non-prosecution. The Learned authorized representative for Department of Revenue submitted that Ld. NFAC has passed the reasoned order. The assessee is non-cooperative and he did not furnished the details. The appeal was rightly dismissed by the Ld. NFAC.

7. We have heard both the parties and perused the material available on record. It is an admitted fact that despite opportunities granted by lower authorities, the assessee did not file his submissions before the Ld. NFAC, for which the Ld. NFAC dismissed the appeal for non- prosecution.

8. Since in the instant case the Ld.NFAC has dismissed the appeal without being heard to the assessee, for non-prosecution, therefore, considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. NFAC with a direction to grant one final opportunity to the assessee to substantiate its claim and decide the issue as per fact and law. The assessee is also directed to appear before the AO and co-operate in the proceedings. The

grounds raised by the assessee are accordingly allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court 19.03.2026.

Sd/-  
**( S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(SUDHIR KUMAR)**  
**(JUDICIAL MEMBER)**

SR BHATNAGGAR

Date: 27.03.2026

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT DELHI