

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 4205/Del/2024
(Assessment Year: 2017-18)

Kanchan Chopra, NP-5, Pitampura, Delhi-110034	Vs.	Income Tax Officer, Ward-43(6), Delhi
(Appellant)		(Respondent)
PAN: ADTOC1126D		

Assessee by :	Shri Suresh Kumar Gupta, CA
Revenue by:	Shri Om Prakash, Sr. DR
Date of Hearing	02/09/2025
Date of pronouncement	19/11/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No. 4205/Del/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2024-25/1067743549(1) dated 19.08.2024 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.12.2019 by the Assessing Officer, ITO, Ward-43(6), Delhi (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds: –

"1. On the facts and circumstances of the case, the assessment proceedings and consequent assessment order both under challenge in the present appeal are unsustainable in law on the ground that no notice u/s 143(2) has been issued till completion of assessment by the authority

having jurisdiction over appellant and also by the authority completing the assessment.

2. The Ld. CIT(A) has erred both on facts and in law in upholding the impugned addition of Rs.1,66,70,000/- u/s 68 of IT Act rws 115BBE of IT Act treating the cash deposits to that extent during demonetization period as unexplained cash credits ignoring the fact that the above cash deposit is as a result of cash sales which has duly recorded in P&L Account and therefore the addition made u/s 68 of IT Act rws 115BBE of IT Act is not sustainable in law.

3. The Ld. CIT(A) has erred both on facts and in law in upholding the impugned addition of Rs. 1,66,70,000/- u/s 68 of IT Act rws 115BBE of IT Act treating the cash deposits to that extent during demonetization period in bank account as unexplained cash credits ignoring the fact that the above provision has no application to the facts of the case as the same has been invoked for debits in bank book of the appellant and simultaneous credit in the bank account of the appellant maintained by the bank.

4. The action of the Ld CIT(A) has erred both on facts and in law in upholding the impugned addition of Rs. 1,66,70,000/- u/s 68 of IT Act rws 115BBE of IT Act which is unsustainable in law as the same has been made without complying with mandatory provisions of sec 145(1) of IT Act under which the income of the appellant need be computed on the basis of the books of account so maintained.

5. The appellant craves leave to add, delete, modify / amend the above grounds of appeal with the permission of the Hon'ble appellate authority."

3. The assessee has raised additional ground of appeal which read as under:-

"On the facts and circumstances of the case, the assessment proceedings and consequent assessment order both under challenge in the present appeal are unsustainable in law on the ground that no notice u/s 143(2) has been issued till the completion of assessment by the Authority having jurisdiction over appellant and also by the authority completing the assessment"

4. Since this additional ground is purely legal ground going to the root of the matter and facts relevant for adjudication are already on record, in view of the decision of the Supreme Court in the case of NTPC Limited Vs.

CIT reported in 229 ITR 383 (SC), we are inclined to admit the additional ground and take up the same for adjudication.

5. We have heard the rival submissions and perused the material available on record. With regard to additional ground raised by the assessee, the Id DR before us filed a factual report from the Id AO dated 16.07.2025. The grievance of the assessee is that notice u/s 143(2) of the Act dated 24.09.2018, 25.09.2018 was issued by ITO, Ward-40(1), New Delhi, but the order of assessment u/s 143(3) of the Act was passed by the ITO, Ward- 43(6), New Delhi on 27.12.2019, and as such ITO, Ward 43(6), New Delhi was not the authority to complete the assessment. The Id AO in the factual report stated as under:

"On the date of issuing notice/s 143(2) i.e. 24/25 September, 2018, erstwhile ITO Ward 40(1), Delhi under the Pr.CIT, Delhi-14, New Delhi was having jurisdiction over the assessee at the time of issuance of Notice u/s 143(2) of the Income Tax Act, 1961. Subsequent to the notification dated 20th September, 2019 the jurisdiction of PCIT- Delhi-14 charge was merged with the office Pr.CIT, Delhi-15, and known as Pr.CIT, Delhi 15, New Delhi.

Further, Pr.CIT, Delhi-15, vide Order u/s 120 of the Income Tax Act, 1961 dated 01/10/2019 (Copy enclosed A-2) created jurisdiction of Ranges 43, 44 and 45. Assessee's jurisdiction falls under Range-43, New Delhi.

Furthermore, Jt.CIT, Range-43, vide order u/s 120 of the Income Tax Act, 1961, Dated 1.10.2019 (copy enclosed A-3) assigned the Jurisdiction of Range-43 ACIT/ITOs which included one Circle and eight Wards. Wards included ITO Ward 43(6) {old Ward 40(1)}, Delhi.

Thereafter, vide another Order u/s 120 of the Income Tax Act, 1961, dated 28.8.2020 (copy enclosed A-4), Addl.CIT, Range-43, New Delhi reassigned the jurisdiction of ITO Ward 43(6), Delhi.

Thus, assessment order u/s 143(3) was passed on 27.12.2019 by newly assigned ITO Ward 43(6), New Delhi falling under the office of Pr.CIT, Delhi-15 i.e. after restructure charge of Pr.CIT, Delhi-15.

In view of the above notification the Notice u/s 143(2) dated 24/9/2018 and 25/9/2018 was correctly issued and served on the assessee. Assessment order u/s 143(3) was also passed by the AO having revised jurisdiction i.e. as ITO Ward 43(6), Delhi.”

6. In view of the above, we are convinced with the arguments advanced by the Id DR and accordingly we have no hesitation to dismiss the additional ground raised by the assessee.

7. In the original ground raised by the assessee, the only effective issue to be decided is with regard to challenging the addition made on account of cash deposits made during demonetization period in the sum of ₹1,66,70,000/- u/s 68 r.w.s Section 115BBE of the Act.

8. We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the business of trading of multiple general items, details of which were duly submitted before the Id AO. All of assessee's purchases are imports made from outside India and which were brought into India only after passing through custom barriers by filing a Bill OF Entry (BOE) on payment of customs duty as levied by the Customs Department. It is not in dispute that the assessee had made cash deposits of ₹1,66,70,000/- in his bank account during demonetization period. The assessee during the course of assessment proceedings before Id AO, submitted the item-wise details of stock of all the items containing opening quantity, quantity purchased during the year, quantity sold during the year and closing quantity. The details were provided along with their price and total value and the details so submitted by the assessee were duly accepted by the Id AO. The assessee when confronted to explain the source of cash deposits made in the bank account, the assessee submitted

that the same was out of cash sales made prior to demonetization and all the details with respect to the same along with copy of quarterly VAT returns in support of total sales made during the year were uploaded online on 08.12.2019. The assessee submitted the complete summary of cash along with quarterly VAT returns along with sales ledger before the Id AO. The assessee submitted the complete details with respect to sales made during the year in the required format sought by the Id AO. Despite furnishing all the relevant details, the Id AO ignored the evidences on record and proceeded to pass the order by making an addition on account of cash deposits by holding that the cash sales were bogus sales. This action of the Id AO stood upheld by the Id CIT(A).

9. It is not in dispute that the assessee had indeed shown cash sales and is part of the total turnover disclosed by it in the return of income and in the audited profit and loss account. The following points are undisputed and indisputable: –

- a. The assessee had shown cash sales as part of total sales disclosed by the assessee in the sum of ₹5.39 crores in the profit and loss account.
- b. The purchase made by the assessee has not been doubted by the revenue.
- c. The total sales made by the assessee (both cash as well as credit sales) has not been doubted by the revenue.
- d. The assessee had sufficient stocks to effect the said cash sales and generate cash as an independent source to prove the cash deposits.

- e. To the extent of sales made by the assessee, corresponding reduction in stock had been duly made.
 - f. Sales made by the assessee, both cash as well as credit had been duly subjected to VAT and the VAT authorities had accepted the turnover declared by the assessee.
 - g. The assessee has furnished month-wise, purchase and sales, both cash as well as credit for the year under consideration as well as for the immediately preceding year. The assessee has furnished complete details of purchase and month-wise details of sales (both cash as well as credit) for the whole year.
 - h. The assessee has furnished the complete cashbook, showing the month wise movement before the Id AO.
 - i. There is no negative cash balance on any day that has been alleged by the Id AO.
10. Further, we find that the Id AO had accepted the return of income by the assessee, which included this cash sales also. Hence, separately, making an addition on account of cash deposits in the sum of ₹1,66,70,000/- would only result in double addition. Hence, the addition made on account of cash deposits deserves to be deleted on that count itself. Further, we hold that the assessee had indeed proved the source of cash deposits by clearly establishing that the source emanated from the books of account and the cashbook regularly maintained. None of the books of account have been rejected by the Id AO. In these facts and circumstances, there is no case made out by the revenue for making an addition on account of cash deposit separately. Accordingly, the addition made is hereby directed to be deleted. Further, we also find that Hon'ble Madras High Court in the case of of SMILE Microfinance Limited vs ACIT in

WP (MD) No. 2078 of 2020 and WMP (MD) No. 1742 of 2020 dated 19-11-2024 had held that the provisions of section 115BBE of the Act which enhanced the rate of tax could be made applicable only from 01.04.2017, relevant to assessment year 2018-19 onwards and not earlier. Accordingly original grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 19/11/2025.

-Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 19/11/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi