

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 563/Del/2024
निर्धारणवर्ष/Assessment Year: 2017-18**

BALSONS JEWELLERS, 1, ABULANE CHOWK, MEERUT, UTTAR PRADESH.	बनाम Vs.	INCOME TAX OFFICER, WARD-1(2)(3), AYEKAR BHAWAN, NEAR BHAISALI GROUND, MEERUT, UTTAR PRADESH.
PAN No.AALFB8236G		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Rohit Agarwal, CA
Revenue by	Shri Ajay Kumar Arora, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	26.05.2025
उद्घोषणाकीतारीख/Pronouncement on	16.06.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the assessee against the order of the Ld. CIT(Appeals)-NFAC Delhi dated 16.01.2024 for the AY 2017-18 in sustaining the addition made u/s 69A of the Act.

2. Brief facts are the assessee is a firm engaged in the business of jewelers filed return of income for AY 2017-18 on 03.08.2017

declaring income of Rs.2,02,420/-. The assessment was taken up for scrutiny and in the course of assessment proceedings the assessee was required to explain the cash of Rs.58,50,000/- deposited into its account during demonetization period. The assessee furnished bank statements, month wise sale and purchases along with sale and purchase ledgers, etc. to support the cash deposits made into bank account. A detailed reply was also filed before the Assessing Officer in the course of assessment proceedings explaining the cash deposits. However, the AO treated the cash deposited of Rs.58,50,000/- as unexplained income of the assessee u/s 69A of the Act observing that the assessee has made sales mostly in cash in the month of October 2016 from trading of jewellery and cash was deposited in the month of November 2016 during demonetization period and not deposited the cash before the demonetization period and the assessee could not explain the source for cash deposits. On appeal the Ld. CIT(A) sustained the addition made u/s 69A of the Act.

3. Before us the Ld. Counsel for the assessee, at the outset, submits that the assessee is a partnership firm carrying on the business of sale and purchase of jewellery from past several years. The assessee filed returns regularly and the return for the relevant

assessment year was filed on 03.08.2017 declaring income of Rs.2,02,420/- and a copy of acknowledgement of return is placed at pages 21 to 24 of the Paper Book. The Ld. Counsel submits that the books of account of the assessee were duly audited u/s 44AB of the Act and copies of the audited balance sheet and tax audit report were placed at pages 25 to 46 of the Paper Book. The Ld. Counsel submits that in the course of assessment proceedings the assessee explained that the cash deposited in the bank account during demonetization period was part of its business cash in hand, which was received by it upon cash sales duly recorded in its books of account. The assessee submitted that the sales made by it were duly supported by the stock movement and has duly been declared and accepted by the sales tax department. Ld. Counsel submitted that ignoring the submissions of the assessee the assessment was completed on 31.12.2019 holding that the cash deposits made into bank account of the assessee were unexplained in terms of section 69A of the Act which was sustained the Ld. CIT(A).

4. Ld. Counsel for the assessee submitted that the provisions of section 69A of the Act are applicable only in those cases where the amount under consideration has not been recorded in the books of account of the assessee. Ld. Counsel submitted that in the present

case the amount of cash deposit made in its bank account during demonetization period was duly recorded in its audited books of account. Ld. Counsel submitted that copy of cash book of the assessee is placed at pages 76 to 88 of the Paper Book. Ld. Counsel submitted that since the addition under appeal has been made and confirmed u/s 69A of the Act and the amount under consideration has duly been recorded in the audited books of account of the assessee, which was duly accepted by the AO the addition under appeal deserves to be deleted as the provisions of section 69A of the Act cannot be applied in the present case. Reliance was placed on the following decisions: -

- a) *Rakeshkumar Babulal Agarwal vs. PCIT (2022) 136 taxmann.com 329 (Guj HC)*
- b) *Hemant Samarataji Lohar vs. CIT(A) (2024) 163 taxmann.com 292 (Mum ITAT)*
- c) *Ramchandra Kanu Mendadkar vs. CIT(A) (2023) 151 taxmann.com 356 (Mum ITAT)*
- d) *Ananthakrishnan Vasudev Aithal vs. ITO (Bang. ITAT) (2023) 147 taxmann.com 376*
- e) *DCIT vs. M.C. Hospital (2022) 142 taxmann.com 122 (Chennai ITAT)*

5. On merits the Ld. Counsel for the assessee submitted that the observation of the Ld. AO that the books were not produced was not

correct. As a matter of fact the assessee has produced the books of account, the books were audited the financials were submitted.

6. The Ld. Counsel further made the following submissions on merits: -

“Ground Nos. 1.3 & 4 have been raised by the appellant challenging the action of the Ld. A.O. of making addition of Rs.58,50,000/- u/s 69A of the Act and that of the Ld. CIT(A) of confirming the same ignoring the submissions of the appellant.

Documents relied upon/submissions

1. The submission as filed before the Ld. CIT(A) and Ld. A.O. during the course of the 1st appeal proceedings and assessment proceedings. Copies placed at Page Nos. 1 to 20 of the paper book.

2. The sales doubted by the Ld. A O. and Ld, CIT(A), have duly been recorded in the audited books of accounts of the appellant. Copy of the audited balance sheet of the appellant are placed at page no. 25 to 46 of the paper book.

3. The cash deposited in the bank account of the appellant was duly, supported by the availability of cash with it in its cash book. Copy of the cash book has duly been filed during the course of the assessment proceedings vide submission dated 24.12.2019. Copy of the cash book is placed at page nos. 76-88 of the paper book.

4. All the cash sales are duly supported by stock movement. The item wise stock register for the relevant year is placed at Page Nos. 73 to 75 of the paper book. No deficiency has been pointed out by the Ld. A.O. or the Ld. CIT(A) in the Stock register for the year under consideration.

5. All the sales made by the- appellant were duly supported by the sale bills issued by the appellant. Copies of which are placed at Page Nos. 132 to 178 of the paper book.

6. The Ld. A.O. accepted the book results of the appellant. The Ld. CIT(A) rejected the books of accounts of the appellant for the sole reason that the sale bills were not filed before him during the course of the appeal proceedings. Apart from that no deficiency has been pointed out in the books of accounts of the appellant by the Ld. CIT(A) the Ld. CIT(A) even accepted the same net profit ratio as declared by the appellant in its audited books of accounts while granting the relief of Rs.1,87,200/- to the appellant.

7. All -the sales have duly been declared in the sales tax returns, which have been accepted by the VAT department in the VAT assessment order. Copy of the sales tax returns and sales tax assessment order are placed at page nos. 53 to 69 of the paper book.

8. All the sales made by the appellant are duly supported by the purchases, which have been accepted by the Ld. A.O. and the Ld. GIT(A). Further, the book results of the appellant have also not been disturbed by the lower authorities. '

9. In this regard reliance is placed on the following judicial pronouncements:-

- J.R. Rice India (P) Ltd, Vs. ACIT (2023) 157 taxmann.com 337 (Del ITAT)
- ITO Vs. J.K. Wood India (P) Ltd. (2024) 158 taxmann.com 208 (Del ITAT)
- DCIT Vs. Subhash Chand Gupta (2023) ITA No. 1548/Del/2022
- Yogesh Gupta Vs. ACIT (2024) 159 Taxmann.com 1396 (Del ITAT)
- Jet freight Logistics Ltd. Vs CIT(A) (2023) 146 taxmann.com 349 (Mum ITAT)

Photocopies of all the above noted judicial pronouncements are placed at Page nos. 179 to 208 of the paper book.

10. *The additions so made by the Id. AO and confirmed by the Id. CIT(A), is illegal and bad in law as the same has only been made on the basis of whims and surmises, and nothing has been brought on record both by the Id. AO and the Ld. CIT(A) to disprove the appellants submissions.*

11. *On the basis of the above documents/explanations; we pray to your honor that the impugned addition so made by the Id. AO and confirmed by the Id. CIT(A), may kindly be deleted and the order of the Ld. CIT(A) be set aside.”*

7. On the other hand, the Ld. DR strongly supported the orders of the authorities below.

8. Heard rival submissions, perused the orders of the authorities below. The primary contention of the assessee is that the provisions of section 69A are not applicable when the transactions are recorded in the books of account. The cash deposits made during demonetization period were duly recorded in the books of account by the assessee and the books were audited u/s 44AB of the Act. The assessee in the course of assessment proceedings furnished all the financials including the audited balance sheet and the profit and loss account and also copies of VAT returns, sales tax, assessment order, copies of purchase bills and purchase ledger, copy of stock register, copy of cash book, copy of sales ledger, copy of bank statements, copies of all the sales bills issued by the assessee to various customers, etc. Therefore, it is not in doubt

that the cash deposits made by the assessee were not recorded in the books of account.

9. In the case of Rakesh Kumar Babulal Agarwal vs. PCIT (2022) 136 taxmann.com 329 the Hon'ble Gujarat High Court held that no additions u/s 69A can be made of seized gold jewellery as it was paid for by assessee through banking channels and recorded in the books of accounts. When the assessee has paid for seized gold jewellery through banking channels and recorded the same in his books of accounts such gold jewellery cannot be termed as unaccounted investment of the assessee.

10. The Mumbai Bench of the Tribunal in the case of Hemant Samarataji Lohar Vs. CIT (2024) 163 taxmann.com 292 held that the assessee disclosed the source of amounts in question having been accumulated/received from relatives on various occasions as well as by the family members of the assessee which the assessee has recorded in his books of account the cash seized cannot be treated as unexplained money u/s 69A of the Act.

11. In the case of Ramchandra Kanu Mendadkar vs. CIT (supra) the Mumbai Bench of the Tribunal has taken a similar view holding that the cash seized was proved to be recorded in the books of account

such cash cannot be treated as unexplained money u/s 69A of the Act.

12. The Bangalore Bench of the Tribunal in the case of Ananthakrishnan Vasudev Aithal vs. ITO (supra) held that in order to invoke provisions of section 69 it is *sine qua non* that assessee must have made investments which are not recorded in the books of account.

13. We further find that the coordinate bench of the Delhi Tribunal in the case of Durga Fire Work vs. ITO in ITA No.383/Del/2024 dated 03.07.2024 held that when the cash deposits were recorded in the books of account and the books were audited, addition cannot be made u/s 69A of the Act observing as under: -

“9. Heard rival submissions, perused the orders of the authorities below and the material placed before us. The legal issue raised by the assessee is whether the addition can be made u/s 69A of the Act in respect of cash deposits even though the same were recorded in the books of account. It is the contention of the Ld. Counsel for the assessee that assessee recorded the cash deposits made into bank account in its books of account and the same were audited and tax audit report was also furnished. On this legal issue, we find that the Mumbai Tribunal in the case of ITO Vs. M/s Zee Bangles Pvt. Ltd. (supra) held as under:

“9. We also find that Id. CIT(A) has rightly held that Sec. 69 provides that in case the assessee is found to be owner of any money, bullion, jewellery or any other valuable article and same is not recorded in the books of account, it may be considered to be deemed

income of the assessee in case he is not able to provide explanation or his explanation is not satisfactory in the opinion of the assessing officer. The same cannot be applied to the case of the assessee since the assessee has himself declared the amount of cash deposited in the return of income after duly entering the same in the books of account. Regarding applicability of the provision of section 69A of the Act we have perused the provisions of Section 69A of the Act which is reproduced as under:

“[69A Power to issue directions for blocking for public access of any information through any computer resource. -

(1) Where the Central Government or any of its officer specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defense of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2) for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and shall also be liable to fine.]”

It is clear that Sec. 69A of the Act is applied when the assessee is found to be owner of any money which is not recorded in the books of account. However, in the case of the assessee, it has maintained books of accounts duly audited in accordance with section 44AB of the Income Tax Act which was also furnished with the return of income filed by the assessee. The assessee has demonstrated from the purchase books, sale books cash book supported with relevant invoices that source of cash deposited was out of the cash sales made during the A.Y. relevant to the assessment year under consideration. The Id. Counsel has also placed reliance on a number of judicial pronouncements on the proposition that addition u/s 69A of the Act cannot be made i.e. Lalchand Bhagat Ambica Ram Vs. CIT (1959) 37 ITR 288 (SC); Lakshmi Rice Mills Vs. CIT (1974) 97 ITR 258 (PAT); DCIT Vs. M/s Karthik Construction Co. ITA No. 2292/Mum/2016.

10. After considering the facts as discussed above, we find the AO has failed to justify in applying section 69A to the case of the assessee when the assessee itself declared the cash sales in its return of income duly recorded in the audited books of accounts maintained by the assessee. Therefore, the CIT(A) has correctly held that provision of Sec. 69A of the Act cannot be applied in respect of cash deposited which have been duly recorded in the books of account and had already been declared income in the return of income filed by the assessee. Therefore, the grounds of appeal of the revenue are dismissed.”

10. Similarly, in the case of Sobha Devi Dilipkumar Vs. ITO (supra) the Vishakhapatnam Bench of the Tribunal held as under:

“4. At the outset, the Ld. Authorized Representative submitted that the assessee being involved in money lending business, on the monies lent, the assessee has received an amount of Rs.3,63,609/- as interest income and the principal amount was given as loan during the previous year

relevant to the assessment year 2017-18 to various persons and the same fact was recorded in the books of account which has been furnished before the Ld. Revenue Authorities. However, the assessee made cash deposits during the demonetization period and therefore the Ld. AO treated the amount of cash deposits as unexplained money u/s 69A of the Act. The Ld. AR further submitted that the assessee has disclosed the investments in the books of accounts and the computation of income which was offered for taxation and therefore the question of invoking the provisions of section 69A does not arise. The Ld. AR relied on the decision of this Bench of the Tribunal in the case of ITO v. Sri Tatiparti Satyanarayana in [IT Appeal No. 76 (Viz.) of 2021, dated 16-3-2022] to state that when the investments are disclosed by the assessee in the books of accounts, there is no application of the provisions of section 69A of the Act. The Ld. AR further submitted that the Ld. CIT(A)-NFAC, on similar set of facts, considered the assessee's son's case (Ankit Dilip Jain) but the Ld. CIT(A)-NFAC has not considered the assessee's case. Therefore, the Ld. AR pleaded that the addition made by the Ld. AO and confirmed by the Ld. CIT(A)-NFAC may be deleted.

5. On the other hand, the Ld. Departmental Representative submitted that the assessee has not filed any details before the Ld. AO and even before the Ld. CIT(A)-NFAC and therefore there is no infirmity in the orders of the Ld. Revenue Authorities and the same may be sustained.

6. I have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is an undisputed facts that the assessee has disclosed the investment in his books of account and also shown the same in the computation of income which was offered for taxation. Therefore, the Ld. AR's contention that the provisions of section 69A are not applicable in the present case of the assessee as the cash deposits during the demonetization period are duly recorded in the assessee's books of accounts holds good. I have

also considered the decision of the Division Bench of this Tribunal in the case of Sri Tatiparti Satyanarayana (supra) wherein the Tribunal held that the provisions of section 69 cannot be invoked when the assessee has disclosed investment in the books of account and in the computation of income which was offered for taxation. Considering the above facts and circumstances of the case, I find force in the arguments of the Ld. AR and accordingly I direct the Ld. AO to delete the addition made on account of unexplained money amounting to Rs.27,50,000/- since the provisions of section 69A are not applicable in the case of the assessee. It is ordered accordingly.”

11. We observe that even on a plain reading of the provisions of Section 69A of the Act it is very much clear that this provision can be invoked only “wherein any financial year the assessee is found to be the owner of the money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article or the explanation offered by the assessee is not in the opinion of the AO satisfactory, the money and the value of the bullion jewellery or other valuable article may be deemed to be the income of the assessee for such financial year”. Therefore, it is very much clear from the provision of Section 69A of the Act if the assessee is found to be the owner of any money which is not recorded in the books of account the same may be added as deemed income u/s 69A of the Act if the assessee offers no explanation or the explanation offered by the assessee in the opinion of the AO is not satisfactory.

12. In the case on hand, the assessee made cash deposits into the bank account which is reflected in its balance sheet, the books were audited, the assessee has furnished the tax audit report and it was also the explanation of the assessee that out of cash deposit of Rs.69,25,000/-, Rs.13 lakhs was from out of the sales made to Zergar Gas and

the other cash receipts were out of the cash sales during Diwali which happened to be on 30.10.2016 just a week before the demonetization which happened on 09.11.2016. Therefore, in our opinion this addition is liable to be deleted on this legal ground alone.”

14. Respectfully following the above decisions, since the cash deposits made by the assessee into bank account were recorded in the books of accounts which were audited we hold that the provisions of section 69A cannot be invoked so as to treat such cash deposits as un-explained money of the assessee. Accordingly, we direct the AO to delete the addition made u/s 69A of the Act. The legal ground no.2 of grounds of appeal of the assessee is allowed.

15. Since we have allowed the appeal of the assessee on legal point the other grounds raised by the assessee on merits are not adjudicated as it would be of only academic in nature at this stage.

16. In the result, appeal of the assessee is partly allowed as indicated above.

Order pronounced in the open court on 16/06/2025

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 16.06.2025

*Kavita Arora, Sr. P.S.

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI