

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
and
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.1087/DEL/2024
(Assessment Year: 2017-18)**

Shivansh Dairy Products Private Limited,
26/6, Plot No.4, Nangli Sakrawati Indl. Area,
Near Main Najafgarh Road,
New Delhi – 110 043.

vs. Income Tax Officer,
Delhi.

(PAN : AARCS9344P)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Shantanu Jain, Advocate
Shri Deepanshu Jain, Advocate
REVENUE BY : Shri Manish Gupta, Sr. DR

Date of Hearing : 15.07.2025
Date of Order : 13.10.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal preferred by the assessee is directed against the order of the Id. Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [for short 'the Id. CIT (A)] dated 11.01.2024 for AY 2017-18.
2. Brief facts of the case are, assessee filed its return of income on 21.11.2017 declaring total income of Rs.6,16,930/-. The case was selected for complete scrutiny through CASS for the following reason :-

“abnormal increase in cash deposits during demonetization period as compared to pre-demonetization period.”

3. Notices under section 143(2) and 142(1) of the Income-tax Act, 1961 (for short 'the Act') were issued and served on the assessee through ITBA portal. After final show-cause notice issued on 07.11.2019, assessee submitted relevant information through ITBA portal. The assessee submitted that cash of Rs.48,48,186/- was deposited in old currency in Canara Bank, Tagore Garden, Delhi Branch from 09.11.2016 to 31.12.2016. To justify the claim of cash deposits, assessee submitted the cash sales made prior to demonetization period and also submitted reconciling the month-wise sales and purchase chart. For the sake of brevity, the same is reproduced below :-

Month	Opening Stock	Purchase (credit+cash)	Total	Sale (credit +Cash)	Total (o.s.+Purchase - sale)
April	4605705	10799956	15405661	12217870	3187791
May	3187791	6619783	9807574	3006860	6800714
June	6800714	548950	7349664	1225664	6124000
July	6124000	7011680	13135680	9270809	3864871
August	3864871	7261732	11126603	3985327	7141276
September	7141276	1566335	8707611	3383250	5324361
October	5324361	661380	5985741	3211868	2773873
8th Novmber	2773873	231476	3005349	191814	2813535
9th Novmber	2813535	5192177	8005712	1843503	6162209

December	6162209	401400	6563609	7976360	<u>-1412751</u>
January	-1412751	5450741	4037990	2826244	1211746
February	1211746	2880000	4091746	1550095	2541651
March	2541651	2108780	4650431	6492989	<u>-1842558</u>

4. The Assessing Officer observed that from the information submitted by the assessee, the stock maintained by the assessee is indicative in the month of December / March i.e. after the demonetization period, therefore, the assessee had shown sales without having corresponding purchases which clearly establish from the chart wherein the assessee had not given data, such as, PAN, address, etc. in respect of certain parties from where purchases were made. The Assessing Officer reproduced the details of cash deposit made by the assessee prior to demonetization period which is listed in the assessment order. He also observed that assessee has filed vouchers to justify the cash sales which are without name and address even the cash sales exceeding Rs.25,000/-. Accordingly, he proceeded to make the addition u/s 68 of the Act.
5. Aggrieved with the above order, assessee preferred an appeal before NFAC, Delhi and filed grounds of appeal and detailed submissions along with copy of VAT returns. It was submitted that sales were made out of opening stock which were disclosed in the previous year income-tax return and out of regular purchases. It was submitted that the statement made by the Assessing Officer is not correct because while calculating the negative figure of stock, the Assessing Officer has not taken into consideration the gross profit earned from the sale of products and direct expenses

debiting in the trading account. Accordingly, a fresh chart was submitted before the Id. CIT (A) which is reproduced at page 5 of the appellate order for the sake of brevity, the same is reproduced below :-

Month	Opening Stock	Purchase	Direct Exp.	Sale	Gross Profit	Closing Stock at end of relevant period
April	4605705	10799956	5,537.20	12217870	12,26,487.21	3187791
May	44,19,815.41	6619783	-	3006860	3,01,842.74	6800714
June	83,34,581.15	548950	33,300.00	1225664	1,23,037.91	6124000
July	78,14,205.07	7011680	-	9270809	9,30,647.38	3864871
August	64,85,723.45	7261732	7,20,600.00	3985327	4,00,065.86	7141276
September	1,08,82,794.30	1566335	2,100.00	3383250	3,39,626.54	5324361
October	94,07,605.84	661380	-	3211868	3,22,422.41	2773873
8 th November	71,79,540.24	231476	40,300.00	191814	19,255.19	2813535
9 th November	72,78,757.43	5192177	-	1843503	1,85,059.50	6162209
December	1,08,12,490.93	401400	38,000.00	7976360	8,00,704.51	-1412751
January	40,76,235.44	5450741	-	2826244	2,83,711.66	1211746
February	69,84,444.09	2880000	-	1550095	1,55,605.82	2541651
March	84,69,954.91	2108780	30,000.00	6492989	6,51,796.75	-1842558
Total		5,07,34,390	8,69,837.20	57182653	413,830.227	

6. After considering the above submissions, Id. CIT (A) sustained the addition made by the Assessing Officer with the observation that no satisfactory reply was furnished by the assessee. During appellate proceedings, the assessee merely stated that the deposits are out of cash sales and no documentary evidence was filed in support of the deposit.
7. Aggrieved assessee is in appeal before us raising following grounds of appeal :-
 - “1. That the order passed by the Hon'ble CIIA) dated 11/01/2024 is against the law and facts of the case.
 2. That having regard to the facts and circumstances of the case, Hon'ble CIT (A) has erred in law and on facts in confirming the impugned assessment order u/s 143(3) of the Income Tax Act and without complying with the mandatory conditions u/s 143 as envisaged under the Income Tax Act, 1961.
 3. That having regard to the facts and circumstances of the case Hon'ble CIT (A) erred in law and on facts in confirming the action of Ld. AO in making an addition of Rs.48,49,186/- u/s 68 of the Act r.w.s. 115BBE on account of cash deposit in bank account by treating the same as unexplained income of assessee without considering the facts of the case and without considering the submissions of assessee and without observing the principles of natural justice
 4. That having regard to the facts and circumstances of the case, Hon'ble CIT (A) has erred in law and on facts in confirming the action of Ld AO in making an addition u/s 68 of the Act and charging tax as per section 115BBE of the Act, without considering the facts of the case.”
8. At the time of hearing, Id. AR of the assessee reiterated the submissions made before the Id. CIT (A) and submitted that assessee has filed Form D-VAT 56 for all the four quarters disclosing purchases and sales and all the informations are submitted before the lower authorities that considering the opening stock and purchases matches with the sales after considering the GP earned by the assessee. He relied on the detailed submissions made before the Id. CIT (A).

9. On the other hand, Id. Dr of the Revenue relied on the findings of the lower authorities.
10. Considered the rival submissions and material placed on record. We observe that the Assessing Officer proceeded to make the total cash deposit made by the assessee during demonetization period since assessee could not submit the relevant information of cash deposit made by the assessee during the impugned year. Assessing Officer also observed that when the assessee is depositing minor cash in its bank account then why he retained such huge cash in hand which it later on deposited during demonetization and the assessee after demonetization not deposited the whole cash in hand with it in one go. Assessing Officer also observed that the vouchers which were filed by the assessee to justify cash sales are without name and address even the cash sales are exceeding Rs.20,000/- . In our view, there is no requirement to maintain details for sales less than Rs.2 lakhs as per guidelines. In appeal, assessee made detailed submissions and filed copies of audited balance sheet, bank statement, VAT returns, sales bills, purchase bills etc. and before Id. CIT (A), he submitted that the Assessing Officer relied on the chart reproduced in assessment order and Id. CIT (A)'s order, which is reproduced above at page 2 & 3 of our above order, which is not correct because while calculating negative figure of stock, Assessing Officer has not taken into consideration the gross profit earned from the sale of the products and direct expenses debited in the trading account. He submitted that had the Assessing Officer considered the gross profit then all the figures of trading account will tally. In this regard, assessee submitted a calculation chart considering gross profit before the Id. CIT(A), which is reproduced by us at page 4 above, and submitted that this reflects the calculation of closing stock in a correct way on accounting basis and this chart proves that the assessee has enough stock in hand so the sales transacted during the

year under consideration are genuine. He submitted that the assessee has furnished the entire information which proves the genuineness of the sales and the source of cash deposit and contention of the Assessing Officer/CIT(A) is based on assumptions, conjectures and surmises only and not on any authenticated evidences. We observe that the Id. CIT (A) also proceeded to sustain the above addition without considering the actual facts on record.

11. Based on the information available on record, we observe that the method adopted by the Assessing Officer to determine closing stock is not proper. The chart submitted by the assessee is proper. The trading results include the direct expenses and gross profit. Therefore, we are inclined to conclude that the assessee had enough stock to make the cash sales during the demonetization period. Therefore, we are inclined to allow the grounds raised by the assessee.
12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 13TH day of October, 2025.

SD/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER
Dated: 13.10.2025/TS

SD/-
(S.RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI