

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCHES, "SMC" CHANDIGARH**

HEARING THROUGH: PHYSICAL MODE

BEFORE: SHRI. LALIET KUMAR, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 971 /Chd/2025

निर्धारण वर्ष / Assessment Year : 2017-18

Shri Jai Prakash C/o Jagdambey Feed Shop, Morinda, Punjab-140101	बनाम	The ITO Ward 2(2) Ropar
स्थायी लेखा सं. / PAN NO: AFBPP7029Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Ms. Ravjot Kaur, C.A
राजस्व की ओर से/ Revenue by : Smt. Priyanka Dhar, Sr. DR

सुनवाई की तारीख/Date of Hearing : 11/11/2025
उद्घोषणा की तारीख/Date of Pronouncement : 12/11/2025

आदेश/Order

PER LALIET KUMAR, J.M

This appeal by the assessee arises out of the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated **19.02.2024**, passed under section 250 of the Income-tax Act, 1961 for the Assessment Year 2017-18.

2. The appeal has been filed with a delay of 457 days. The assessee filed a petition dated **31.07.2025** supported by a duly sworn affidavit explaining the cause of delay. The relevant contents of the petition are reproduced in brief:

"The assessee, being unaware of the appellate hierarchy and legal procedure, inadvertently filed another appeal in Form No. 35 before the CIT(A) on 18.03.2024 instead of before the Hon'ble Tribunal. The mistake came to notice only during response to penalty proceedings, whereupon the assessee engaged new counsel and promptly filed the present appeal. The delay was neither deliberate nor with any mala fide intent, but purely due to lack of legal guidance and bona fide misunderstanding."

3. After considering the totality of the facts and circumstances and keeping in view the principles of substantial justice, we are satisfied that the assessee had

sufficient and reasonable cause for the delay in filing the appeal. Even otherwise, the period spent in pursuing the remedy before the Ld. CIT(A), wrong forum, is liable to be excluded while computing the limitation in terms of the provisions of the Limitation Act. Accordingly, the delay of 468 days in filing the appeal is condoned, and the appeal is admitted for adjudication on merits in exercise of powers under section 253(5) of the Income-tax Act, 1961.

4. Briefly, the facts of the case are that the assessee is engaged in trading of *cattle and animal feed* under the proprietorship concern *M/s Jagdambey Feed Shop, Morinda*. He filed his return of income declaring Rs.5,61,310.

4.1 On the basis of information regarding cash deposits of Rs.2,40,45,000 (including Rs.28,00,000 during the demonetization period), the case was reopened under section 147. The Assessing Officer framed reassessment on **31.03.2022** u/s 147 r.w.s. 144B, making an addition of Rs.21,50,000 u/s 69A, holding that the cash deposits made during November–December 2016 were unexplained.

5. Against the order of the Ld. AO the assessee went in appeal before the Ld. CIT(A). The Ld. CIT(A) accepted the assessee's explanation partly and deleted Rs.13,50,000, sustaining Rs.8,00,000 as unexplained, on the reasoning that after 11.11.2016, the assessee could not have possessed Specified Bank Notes (SBNs) as the cash of Rs.20,00,000 had already been deposited in the bank on that date

6. Against the order of the Ld. CIT(A) the assessee preferred an appeal before the Tribunal.

7. During the course of hearing the Ld. AR reiterated the grounds and made detailed submissions as under:

(i) **Genuine business and regular accounts:**

The assessee has been engaged in animal feed trading for more than 15 years. Books of account are maintained regularly and duly audited.

The Assessing Officer has not pointed out any defect or discrepancy in purchases, sales, or trading results.

(ii) Pattern of sales and deposits consistent:

The turnover for the year was Rs.2.78 crore with declared profit of Rs.5.61 lakh. The monthly sales and deposits were proportionate and in the same trend throughout the year. The AO accepted all cash deposits except those made during the demonetization period, despite the fact that business continued as usual.

(iii) Availability of cash balance as per books:

The audited books showed cash balance of Rs.21,01,266 as on 11.11.2016. The deposit of Rs.20,00,000 on the same date was fully covered. The Ld. CIT(A) has rightly deleted Rs.13,50,000 after verifying this fact.

(iv) December deposits explained:

The deposits of Rs.3,00,000 on 21.12.2016 and Rs.5,00,000 on 29.12.2016 were out of continuing cash sales of animal feed and small receivables from customers who paid in old notes before expiry of the exchange period. The conclusion of the CIT(A) that no SBNs could exist post-11.11.2016 overlooks the reality of small-town trade and continued collections during the transition period.

(v) No adverse material found:

Neither the AO nor the CIT(A) disputed the quantum of sales or alleged inflation or bogusness. Once sales and trading results are accepted, treating corresponding deposits as unexplained merely on timing is unsustainable in law. Reliance was placed on **Deepak Trading Company vs ITO (ITA No. 107/Chd/2025)** and **ITO vs Kailash Chand (ITA No. 44/Chd/2025)** wherein it has been held that if sales are accepted and books are audited, cash deposits during demonetization cannot

be treated as unexplained. Accordingly, it was prayed that the addition sustained by the CIT(A) of Rs.8,00,000 be deleted in full.

8. Per contra, the Ld. DR relied on the orders of the lower authorities, emphasizing:

(i) The assessee deposited Rs.8,00,000 in December 2016, i.e., more than 40 days after demonetization, without any documentary proof of generation of corresponding cash sales;

(ii) The CIT(A) has already extended substantial relief by deleting Rs.13,50,000 and sustained only Rs.8,00,000 with detailed reasoning based on cash flow and legality of currency in circulation;

(iii) There is no material on record to establish that the assessee received valid cash post 11.11.2016; and

(iv) The order of the CIT(A) being reasoned and factual, deserves to be upheld.

9. I have carefully considered the rival contentions and examined the record. It is undisputed that the assessee is engaged in genuine trading activity, the books are audited, and the sales figures have been accepted. The Assessing Officer has not pointed out any inflation, suppression, or fictitious entry in the books. The CIT(A) has already found that the cash balance of Rs.21,01,266 as per books justified the deposit of Rs.20,00,000 made on 11.11.2016, and accordingly deleted Rs.13,50,000 out of Rs.21,50,000 addition. This finding clearly establishes that the assessee's cash book is reliable. As regards the balance Rs.8,00,000 deposited in December 2016, the assessee has explained that it was out of regular cash sales of animal feed. Given that the sales trend was uniform and business continued, such an explanation cannot be entirely brushed aside. At the same time, to account for minor timing and verification differences, it would be reasonable to sustain a nominal addition. Accordingly, the addition of Rs.5,00,000 is deleted, and the balance addition of Rs.3,00,000 is sustained.

10. In the result, the appeal is **partly allowed**, with the following directions:

Particulars	Amount (Rs.)
Addition made by AO u/s 69A	21,50,000
Relief by CIT(A)	13,50,000
Sustained by CIT(A)	8,00,000
Relief by ITAT (deleted)	5,00,000
Addition sustained finally	3,00,000

Order pronounced in the open Court on 12/11/2025

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

AG

Date: 12/11/2025

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar