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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No.296/Del/2024
Assessment Year: 2019-20

Sh. Satya Narain Bari, J324B, J Block 4, Pusta Kartar Nagar, Jagjit Nagar S.O., East Delhi, Delhi	**Vs.**	DCIT, Central Circle-20, New Delhi
PAN: BBBPB2490Q		
(Appellant)		**(Respondent)**

Assessee by	None
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	03.11.2025
Date of pronouncement	03.11.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2019-20, arises against the Commissioner of Income Tax (Appeals)-27 [in short, the "CIT(A)"], New Delhi's order dated 30.11.2023 passed in case no. CIT(A), Delhi-27/10858/2018-19 involving proceedings under section 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Case called twice. None appears at the assessee's/appellant's behest. He had also not put in appearance on the last date of hearing i.e. 10th September, 2025 as well. We accordingly proceeded *ex-parte* against the assessee.

3. It next transpires during the course of hearing with the able assistance coming from the Revenue side that the CIT(A) has partly upheld Assessing Officer's action treating the assessee's cash seized from locker amounting to Rs.27.50 lakhs to the extent of Rs.25 lakhs; vide following detailed lower appellate discussion: -

> *"7. Ground No.2 of appeal relates to addition of Rs.27,50,000/- u/s 69A r.w.s. 115BBE of the Act made by the AO.*
>
> *7.1 The brief facts of the case are that a search & seizure operation was conducted on 11.12.2018 in Faquir Chand Lockers and Vaults Pvt. Ltd. group of cases. The appellant's locker No. 186 at 6704A, Khari Baoli, Delhi-110006 was also covered u/s 132(1) of the Act. On operation of the locker no. 186, cash amounting to Rs.27,50,000/- was found and seized. No ITR for AY 2019-20 was filed by the assessee u/s 139 of the Act. Thereafter, the ld. AO issued notice u/s 142(1) of the Act, in response, the assessee filed ITR on 12.05.2021 declaring income of Rs.2,74,610/-. During the course of asstt. Proceedings, the appellant stated that cash found and seized amounting to Rs.27,50,000/- is out of business income and past savings. However, the nature and source of cash amounting to Rs.27,50,000/- furnished by the appellant was not found to be acceptable by the AO. Thereafter, the AO treated cash of Rs.27,50,000/- as unexplained money u/s 69A of the Act and taxed the same u/s 115BBE of the Act.*
>
> *7.2 During course of assessment proceedings, the source of cash explained by the appellant is as under:*
>
> - *The assessee is carrying out business of petty trading of dry fruits. He used to obtained dry fruits from Pathans from Afghanistan in Khari Baoli and used to sold dry fruits to petty traders (Gujaratis) and this amount of Rs.27,50,000/- represents his life time saving from this business activity.*

7.3 After consideration of explanation of the assessee, the AO in assessment order made addition of Rs.27,50,000/- u/s 69A r.w.s. 115BBE of the Act by observing as under:

- *Not ITR for AY 2019-20 u/s 139 was filed.*
- *The assessee has been a non-filer throughout his life.*
- *No evidence in support of conducting of business activity has been furnished.*
- *If amount is out of past savings, how the whole amount of Rs.27,50,000/- was in new currency notes.*

7.4 Now at appellate stage, the appellant has contended as under:

- *The appellant did not file ITR as income was below the taxable limit.*
- *The assessee has declared business income on presumptive basis u/s 44AD of the Act, therefore, the assessee was not required to maintain any evidence or accounts related to its business activity.*
- *The cash found of Rs.27,50,000/- is out of his lifetime savings.*

7.5 I have gone through the contention of the appellant but same are not found to be acceptable as:

7.5.1 The appellant claims to be engaged in the business of trading of dry fruits in Khari Baloi area, however, the assessee is unable to produce single documentary evidence to sustain that he was actually carrying out any such business activity. No details of business premises, godown where stock was kept, manner in which appellant was buying and selling dry fruits, details of parties from whom bought and sold etc. are furnished.

7.5.2 The appellant contended that it is out of his life time savings from business activity, this also not found to be acceptable as:

- *The appellant has been a non-filer throughout of his life. Therefore, no details are available on record with respect to past earning, business and sources of income of assessee before search action.*
- *Even after seizure of cash of Rs.27,50,000/-, no ITR for AY 2019-20 u/s 139 was filed by the assessee to disclose this amount to the tax authorities.*
- *After search operation, in response to notice u/s 153A of the Act, the assessee has filed his ITRs, details of which are as under:*

S. No.	*Assessment Year*	*Date of filing*	*Income declared*
1.	*2013-24*	*22.03.2021*	*194545*
2.	*2014-15*	*23.03.2021*	*216776*
3.	*2015-16*	*23.03.2021*	*252030*
4.	*2016-17*	*23.03.2021*	*258470*
5.	*2017-18*	*23.03.2021*	*266630*
6.	*2018-19*	*23.03.2021*	*272060*

- *From the above table, it is clear that the appellant is earning approximately 20-22 thousand per month from his business activity. The appellant is living in a metro city like Delhi wherein household and personal expenses of the appellant must be equal to this amount. The appellant has not furnished any details of other sources of income or any other source of funds from which he was managing his household and personal expenses.*
- *Further after analysis of the cash flow chart submitted by the appellant, it is observed as under:*

S.No.	Assessment Year	Cash kept at locker (a)	Cash earning from retail business (b)	Increase in cash kept in locker from previous year (c)	Balance cash available wi appellant for house hc and personal expenses (b -c)
1	2013-14	1218000	202500	-	
2	2014-15	1240000	228375	22000	2063
3	2015-16	1460000	261000	220000	410
4	2016-17	1640000	268250	180000	882
5	2017-18	1770000	275500	130000	1455
6	2018-19	2000000	282750	230000	527
7	2019-20	2750000	283475	750000	534 (after consideration decrease in stock of I 5,20,000/

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- *From the above chart, it is clear that there is irregularity and inconsistency in cash balance available with the assessee after deposit of amount in locker. It is not understandable how assessee was managing his household and personal expenses in Rs.41000, 52,750/- and 53,475/- only during AY 2015-16, 2018-19 and 2019-20. Even in other assessment year cash balance available with appellant does not commensurate with possible household and personal expenses of appellant.*
- *Further, during AY 2019-20, in cash flow chart the assessee claimed to have got amount of Rs.5,20,000/- from decrease in stock. However, no such details of stock, how decreased, how amount received etc. are furnished.*

7.5.3 The Central Government had demonetized old currency notes of Rs.500/- and Rs.1,000/- w.e.f. 8th November, 2016 and these old notes of Rs.500/- and 1000/- were ceased to be legal lender.

- *The appellant in his submission stated that during demonetization period he had deposited Rs.1,16,000/- in his saving bank account number 0313101020209. The appellant has not furnished any justifiable cause as to why full cash amount available in locker in old currency notes was not deposited as according to cash flow chart of the appellant approximately cash amounting to Rs.17 lakhs was available in his locker.*

- *Cash amounting to Rs.27,50,000/- found and seized was in new currency notes.*
- *It means the appellant must have deposited old notes in his bank account and then withdrawn new notes from bank account or must have changed old denomination currency through any financial institution. However, the appellant has not furnished any documentary evidence which can establish the manner in through which he had converted old SBNs of Rs.500/- and Rs.1000/- into new currency.*

7.5.4 Further, after search action, no ITR for AY 2019-20 u/s 139 of the Act was filed by the appellant wherein this cash of Rs.27,50,000/- could have been shown as income under relevant head.

7.5.5 In view of above facts of the case and discussion, it is evident that the appellant has failed to sustain his contention to explain nature and source of cash amounting, to Rs.27,50,000/- found and seized from locker.

7.6 In view of above discussion, it is clear that during the course of appellate proceedings also, the appellant has not submitted any documentary evidence to rebut the view taken by the AO. The appellant has no documentary evidence to sustain his contentions. Merely stating that cash found and seized is out of business activity and past savings does not discharge onus of the appellant laid down in section 69A of the Act. Therefore, I find no reason to interfere in the view taken by the ld. AO that the appellant has failed to furnish any discernible explanation of generation of cash found and seized amounting to Rs. 27,50,000/-

7.7 Further, it is not a case of voluntarily disclosure or voluntarily surrender of income. Had the search u/s 132 of the Act would not have been initiated in Faquir Chand Lockers and Vaults Pvt. Ltd. group of cases, the appellant would not have ever disclosed this unexplained cash of Rs.27,50,000/- to the Department. It is only after the search u/s 132 of the Act in Faquir Chand Lockers and Vaults Pvt. Ltd. group of cases where locker No. 186 occupied by the appellant was found and in subsequent consequential search proceedings cash of Rs. 27,50,000/- was found and seized.

7.8 Above discussed facts clearly establish that the appellant does not have any documentary evidence to establish his contentions and it is an afterthought of the appellant after search to route his unaccounted money in the disguise of business of trading of dry fruits. The section 69A of the Act reads as under:

> *"Unexplained money, etc.*
>
> *69A. Wherein any financial year the assessee is found to be the owner of any 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 him is not, in the*

> *opinion of the Assessing Officer, 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."*

As discussed above, in present case, the appellant has failed to explain nature and source of cash of Rs.27,50,000/- found from his locker no.186. Therefor, it is held that provisions of section 69A of the Act are clearly applicable in the appellant's case and the AO has rightly made addition u/s 69A of the Act amounting to Rs.27,50,000/- on account of unexplained money.

7.9 In view of above discussion, I do not find any reason to interfere with the view taken by the Assessing Officer in assessment order and therefore, it is held that the appellant has failed to explain nature and source of cash found and seized amounting to Rs.27,50,000/- from Locker No. 186 at 6704A, Khari Baoli, Delhi-110006. However, keeping the age and claim of the appellant, a benefit of Rs.2,50,000/- is allowed on account of past savings. Hence, addition of Rs.27,50,000/- u/s 69A r.w.s. 115BBE of the act made by the AO is restricted to Rs.25,00,000/- and this group of appeal is hereby partly allowed."

This is what leaves the assessee/appellant aggrieved who has filed the instant appeal before the tribunal.

3. We have given thoughtful consideration to the assessee's pleadings all along and Revenue's vehement contentions reiterating their respective stands. Learned CIT(DR) first of all files before us a copy of the search warrant issued in the assessee's name dated 11.12.2018 to buttress the point that the impugned assessment year 2019-20 happens to be the search year wherein the Assessing Officer had framed his assessment on 11.06.2021 treating the cash deposits herein of Rs.27.50 lakhs as unexplained. The fact remains that the assessee has not been able to plead and prove the source

of these cash deposits to the entire satisfaction of both the learned lower authorities. We reiterate the fact that the assessee had been proceeded *ex-parte* under section 144 of the Act during the course of assessment.

4. Be that as it may, we find only a part merit in the assessee's contentions wherein he has been admittedly found as engaged in dry fruits business wherein neither past accumulated business profits nor cash turnover could be altogether ruled out. We accordingly are of the considered view that a further relief of Rs.5 lakhs to the assessee in these peculiar facts would be just and proper with a rider that the same shall not be treated as a precedent. The impugned addition of Rs. 27,50,000/- made in the assessment order is now restricted to Rs.20 lakhs only in very terms. Necessary computation shall follow as per law.

5. This assessee's appeal is partly allowed.

Order pronounced in the open court on 3rd November, 2025

Sd/-	***Sd/-***
(NAVEEN CHANDRA)	**(SATBEER SINGH GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 11th November, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)

5. DR

Asst. Registrar, ITAT, New Delhi