

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"F" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT**  
**&**  
**SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**I.T.A. No. 547/Mum/2024**

**Assessment Year: 2017-18**

<b>Goldman Tapes Private Limited</b> Gut No. 296, Bhiwandi Wada Road Vadavalli, Wada Palghar - 421303 <b>[PAN: AAACC6922C]</b>	Vs	<b>ACIT, Circle, Palghar</b>
<b>अपीलर्षी/ (Appellant)</b>		<b>प्रत्यर्षी/ (Respondent)</b>

Assessee by :	Shri Devendra Jain, A/R
Revenue by :	Ms. Kavita P. Kaushik, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 12/06/2025

घोषणा की तारीख /**Date of Pronouncement**: 17/06/2025

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the assessee is preferred against the order dt. 01/12/2023 by NFAC, Delhi [hereinafter "the ld. CIT(A)"] pertaining to AY 2017-18. The appeal is time barred by 8 days. The delay is condoned.

2. The grievance of the assessee reads as under:-

*"1. In the facts and circumstances of the case and in law, the Ld. National Faceless Appeal Centre (NFAC), CIT(A) has erred in passing the order dated 01.12.2023 by ignoring the fact the appellant had filed the return of income on 06.11.2019 in response to the Notice under section 142(1) and also that the books of accounts of the appellant were audited.*

*2. In the facts and circumstances of the case and in law, the Ld. National Faceless Appeal Centre (NFAC), CIT(A) has erred in confirming the addition of Rs. 44,61,000/- being cash deposits as unexplained receipts/ investment/asset under section 69A of the Act.*

*3. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC), CIT (A), Mumbai has erred in passing the impugned order dated 01.12.2023 under section 250 of the Act without providing personal hearing to the appellant thereby grossly violating the principles of Natural Justice."*

3. Representatives were heard at length, case records carefully perused and the relevant documentary evidence brought on record duly considered in the light of Rule 18(6) of the ITAT Rules, 1963.

4. Briefly stated the facts of the case are that on the basis of AIMS data in respect of cash deposits of Specified Bank Notes (SBNs) made by the assessee in its bank accounts, the AO issued notice u/s 142(1) of the Act on 15/12/2017. Pursuant to the notices, the assessee filed its return of income.

4.1. During the course of scrutiny assessment proceedings, the AO asked the assessee to explain the source of cash deposit in the bank account with Bassein Catholic Co-op. Bank Ltd. and ICICI Bank Ltd. The assessee filed detailed reply explaining that it has received SBNs on account of realization from the existing debtors during the demonetization period. The assessee was asked to furnish the details with names and full address of the debtors who have deposited these SBNs. The details were furnished by the assessee as acknowledged by the AO in his assessment order at para 10.1 sub para (i.) of his order.

5. Though the assessee has successfully explained the source of cash deposited in the bank accounts but the AO was of the firm belief that the assessee cannot accept the demonetized currency from 09/11/2016 onwards as the same were not a legal tender with certain exceptions as notified in the gazette notification of Ministry of Finance bearing No. 2653 dated 08/11/2016 for any mandatory transactions and accordingly made the addition of Rs. 51.70 Lakhs.

5.1. The assessee carried the matter before the Id. CIT(A) but without any success.

6. Before us, the Id. Counsel for the assessee vehemently stated that the only issue in the impugned quarrel is in respect of the source of cash deposited in the bank accounts which the assessee has successfully explained by furnishing all the details in respect of debtors from whom the money has been realised. It is the say of the Id. Counsel for the assessee that all the relevant documentary evidence have been furnished before the AO and the AO himself has accepted the furnishing of the relevant details supported by documentary evidence.

Per contra the Id. D/R strongly supported the findings of the AO and placed reliance on the decision of the Chennai Bench 'SMC' in the case of *Raju Ravichandran vs. ITO* [2024] 159 taxmann.com 1518 (Chennai – Trib.). The Id. Counsel for the assessee heavily relied on the decision of the Division Bench of ITAT Chennai in the case of *TamilNadu State Marketing Corporation Ltd. vs. ACIT* in ITA No. 431/Chny/2023; order dated 07/10/2024.

7. We have given a thoughtful consideration to the orders of the authorities below. It is true that the assessee has successfully explained the source of the cash deposited in the bank accounts. It is also true that the assessee has furnished complete details of realization from the debtors along with supporting evidence duly reflected in the regular books of accounts maintained by the assessee. The only reason for making the addition given by the AO is that the assessee should not have accepted the SBNs after 08/11/2016 being not legal tenders.

8. We are of the considered view that after assuming that it was not a legal tender for the assessee then the same was also not legal tender for the banks but the banks have accepted the deposit. Therefore, we do not find any merit in the accusation of the AO. Though the decision of the SMC Bench of ITAT Chennai (*supra*) is in favour of the revenue but the same author sitting in Division Bench in the case of *TamilNadu State Marketing Corporation Ltd. vs. ACIT* (*supra*) has decided the impugned issue in favour of the assessee. The relevant findings read as under:-

*"The ld. counsel for the assessee relied on para 9 of the decision, which reads as under:-*

*"10. We have also perused the decision of [A. Govindarajulu Mudaliar v. CIT](#), on which reliance is placed by learned counsel for the Revenue. We, however, fail to understand how [the above decision](#) helps the Revenue in the instant case. In that case, certain amounts appeared in the account books of a firm of which the assessee was a partner as credits for him. The assessee was asked for an explanation as to how he came to possess this amount. His explanation in regard to the source of this amount in part was not accepted. It was in that context that the Supreme Court observed that where an assessee fails to prove satisfactorily the source and nature of certain amounts of cash received during the accounting year, the Income-tax Officer is entitled to draw the inference that the receipts are of an assessable nature. That is not the position in the case before us. In this case, the assessee could prove satisfactorily the source and nature of the amounts. Addition was made not for that reason. The assessee was further required to prove the receipt of the amount of Rs. 2 lakhs therefrom in high denomination notes. In other words, the assessee was asked to prove as to when and from whom he received the amount in high denomination notes. The assessee gave reasonable explanation for his inability to give detailed account of receipts and disbursements of amounts from time to time in currencies of various denominations including high denomination notes. He could, however, satisfy the authorities about the fact that he was often in possession of Rs. 1,000 denomination notes and the probability of high denomination notes of the value of Rs. two lakhs being included therein. In fact, the Revenue itself was satisfied about the inclusion of 96 notes of Rs. 1,000 each therein. The amount of Rs. 1,04,000 was added as income from undisclosed sources only because, according to the Revenue, the assessee failed to discharge the onus cast on him to prove the acquisition of each and every high denomination note encashed by him. This approach, as earlier indicated, is not correct. The assessee having proved the source and shown satisfactorily the possibility of the inclusion of Rs. 1,000 high denomination notes of the value of Rs. 2 lakhs therein, the addition of Rs.*

*1,04,000 to his income for his failure to furnish detailed particulars of the receipt of such notes each of the 200 notes of Rs. 1,000 denomination tendered by him for encashment, is not in accordance with law."*

*This judgment was referred by the ld. counsel for meeting the argument made by ld. Senior DR that the demonetized currency received by assessee in the present case is not out of sale proceeds of liquor. We have gone through the scheme and noted that the Specified Bank Notes (cessation of liabilities) Ordinance 2016 (subsequently this was passed as an Act), was towards cessation of liability of RBI in respect of SBNs with effect from 31.12.2016. The Government of India vide Gazette of India Notification dated 8.11.2016 notified that the SBNs of Rs.500 and Rs.1,000 notes is not a legal tender w.e.f. 9.11.2016. We noted that even the Revenue admitted that the Government has not declared the SBNs as an illegal tender and even possessing of SBNs was not an offence till 31.12.2016. Between the period from 9.11.2016 to 31.12.2016, all the public, who were holding such SBNs were permitted to exchange such holdings against valid currency notes but the scheme itself does not render the SBN as illegal or declaration does not bar in receiving or paying through the SBNs in the course of business like other documents i.e., through cheques, promissory notes, Government securities, which are not legal tender can be freely exchanged so can the SBNs. The Ordinance of December 2016 clearly specifies that on or from 31.12.2016, it is illegal for any person to hold, transfer or receive SBNs. This would mean that prior to 31.12.2016 there is no bar on any person holding, transferring or receiving SBNs prior to 31.12.2016 was not illegal. If a currency is not a legal tender, only the recipient may refuse or cannot force to receive currency which is not legal tender. When both parties to the transaction agrees, there is no prohibition for one party to transfer and the other party to receive SBNs in the course of a legal transactions prior to 31.12.2016. We noted that with the notification of "[The Specified Bank Notes \(Cessation of Liabilities\) Act, 2017](#)", even this liability to honour such exchange, transact, transfer or hold SBNs ceased to be operative from 31.12.2016, the appointed date.*

*8.3 In view of the above provisions, as in the present case, once the receipt of SBNs by assessee is not illegal or barred by any legal provisions the receipt of SBNs cannot be put on a different footing for the purpose of [Section 68](#) or [Section 69](#) of the Act from other currency as the source of SBNs are same as the source of other currency. The SBNs though are not legal tender, is of no consequence for determination of source, because the SBNs can be encashed for the face value with the bank without any question being raised. We further noted from the RBI circulars or CBDT circulars that neither the RBI circulars nor any CBDT circulars including any instructions on demonetization requires any person to disclose the source of SBNs. We noted from the facts of the case placed before us that out of total deposits of Rs.2635.35 Crores were in cash for the month of November 2016, which has been accepted as the value of liquor sold for a sum of Rs.2582.56 Crores, hence it can be easy presumed, unless disproved by Revenue, that the balance sum of Rs.52.79 Crores is out of sale of liquor. There is no basis or evidences or examination of any person for reaching a conclusion that this sum of Rs.52.79 Crores received by assessee has been substituted in demonetized currency. We noted from the evidences placed*

*before us that the observation of the AO that branch wise details of deposits made in SBNs was not available is not correct for the reason that the complete details of deposits of SBNs account-wise, branch-wise was submitted before the AO as well as before the CIT and also before us.*

*8.4 We have gone through the notifications issued by the RBI and Government of India, to deal with specified bank notes. The only premise of the Revenue is mainly on the issue of notification issued by the RBI to deal with the specified bank notes and argument is that the assessee is not one of the eligible person to accept or to deal with specified bank notes and thus, even if assessee furnish necessary evidence, the assessee cannot accept specified bank notes after demonetization and the explanation offered by the assessee cannot be accepted. No doubt specified bank notes of Rs. 500 & Rs. 1000 have been withdrawn from circulation from 09.11.2016 onwards. The Government of India and RBI has issued various notifications and SOP to deal with specified bank notes. Further, the RBI allowed certain category of persons to accept and to deal with specified bank notes up to 31.12.2016. Further, the specified bank notes (cessation of liability) Act, 2017, also stated that from the appointed date no person can receive or accept and transact specified bank notes, and appointed date has been stated as 31.12.2016. Therefore, there is no clarity on how to deal with demonetized currency from the date of demonetization and up to 31.12.2016. Therefore, under those circumstances, some persons continued to accept and transact the specified bank notes and deposited into bank accounts. Therefore, merely for the reason that there is a violation of certain notifications/GO issued by the Government in transacting with specified bank notes, the genuine explanation offered by the assessee towards source for cash deposit cannot be rejected, unless the AO makes out a case that the assessee has deposited unaccounted cash into bank account in specified bank notes.*

*8.5 We further noted that the Central Board of Direct Taxes had issued a circular for the guidance of the Revenue Officer to verify cash deposits during demonetization period in various categories of explanation offered by the assessee and as per the circular of the CBDT, examination of business cases, very important points needs to be considered is analysis of bank accounts, analysis of cash receipts and analysis of stock registers. From the circular issued by the CBDT, it is very clear that, in a case where cash deposit found in business cases, the AO needs to verify the explanation offered by the assessee with regard to realization of debtors where said debtors were outstanding in the previous year or credited during the year etc. Therefore, from the circular issued by the CBDT, it is very clear that, while making additions towards cash deposits in demonetized currency, the AO needs to analyze the business model of the assessee, its books of account and analysis of sales etc. In this case, if we go by analysis furnished by the assessee in respect of total sales, cash sales including the cash received in demonetized currency and cash deposits, there is negligible amount in demonetized currency. Therefore, we are of the considered view that when there is no significant change in cash deposits during demonetization period, then merely for the reason that the assessee has accepted specified bank notes in violation of circular/notification issued by Government of India and RBI, the source explained for cash deposits cannot be rejected. Simpliciter violation of certain notification*



issued by RBI or demonetization scheme announced by Government of India on 08.11.2016 will not entitle the Revenue to make addition u/s.69 or 69A of the Act. Because, the mandate of the provisions of Section 69 & 69A of the Act, i.e., unexplained investments and unexplained money etc., may be deemed to be the income of the assessee for the financial year relevant to assessment year concerned, in which the assessee is found to be the owner of such money, bullion, jewellery or valuable article or unexplained expenditure, if, the such expenditure or such money etc., are not recorded in the books of accounts, if any, maintained by assessee for any source of income and the assessee offers no explanation about the nature and source of such expenditure or acquisition of such money, etc., or the explanation offered by him, in the opinion of AO is not satisfactory. For violation of any RBI notification, etc., can have any civil or criminal liability and can be dealt with under any other provision of law by the concerned authority but for the purpose of bringing the amount under Income-tax, the provisions are very clear i.e., 69 & 69A of the Act. In our considered view, to bring any amount u/s. 69 or 69A of the Act, the nature and source of investment, needs to be examined. In case the assessee explains the nature and source of investment, then the question of making addition towards unexplained investment u/s. 69 of the Act does not arise. In this case, the source of deposits has not been disputed and has been created out of ordinary business sales which has been credited into books of accounts and profits has also been duly included in the return of income filed in relevant assessment year. Therefore, we are of the considered view that, additions cannot be made u/s. 69 of the Act and taxed u/s. 115BBE of the Act towards cash deposits made to bank account of demonetized cash in SBNs.

9. In the result, the appeal filed by the assessee stands allowed. “

9. Since the decision of the Division Bench is subsequent to the decision of the ‘SMC’ Bench, we are inclined to follow the decision of the Division Bench (*supra*) and on finding parity of facts, we direct the AO to delete the impugned addition.

10. In the result, appeal of the assessee is allowed.

**Order pronounced in the Court on 17<sup>th</sup> June, 2025 at Mumbai.**

**Sd/-**

(SAKTIJIT DEY)  
VICE PRESIDENT

**Sd/-**

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 17/06/2025

*Sd/-*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

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Assistant Registrar  
आयकर अपीलीय अधिकरण  
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