

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
And
SHRI TAPAS RAM MISRA, JUDICIAL MEMBER**

ITA No. 3130/AHD/2026
(Assessment Year: 2017-18)

Vikas Ashokkumar Masand, Indian Oil Petrol Pump, Nr. Manav Mandir, Drive-in Road, Ahmedabad-380052. [PAN : ACBPA3190 L]	Vs.	The Deputy Commissioner of Income Tax, Circle 3(1)(1), Ahmedabad.
(Appellant)	..	(Respondent)
Appellant represented by :	Ms Ridhi Masani, CA on behalf of Shri Jaimin Shah, AR	
Respondent represented by:	Shri Amit Pratap Singh, Sr. DR	
Date of Hearing	15.10.2026	
Date of Pronouncement	19.10.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 16.07.2026 passed by the Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC) [hereinafter referred to as the 'Ld. CIT(A)'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal:

1. That the order passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi dated 16.07.2026 is bad in law, contrary to the facts on record, contrary to the settled judicial precedents and is passed without properly appreciating the evidence and submissions placed before him, and therefore requires to be set aside.

2. That on the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in confirming the addition of Rs. 34,40,123/-made by the learned Assessing Officer under Section 69A of the Act, when the very

condition precedent for the invocation of Section 69A, namely that the money is "not recorded in the books of account", is admittedly absent, the learned CIT(A) having himself recorded that the receipt stands entered in the Appellant's books of account. A deeming provision must be construed strictly and cannot be extended to a case which does not fall within its four corners.

3. That the learned CIT(A) has erred in law in holding that an appellant has realised old debt is contrary to the facts of the case, In all the cases the sales were made during the demonetisation period for which cash received from respective parties, who are regular customers of the appellant and accepted cash against the sale of petroleum products and therefore the heavy addition made of Rs. 34,40,123/- require to be deleted.

4. That the learned CIT(A) has failed to appreciate that the appellant has received Specified Bank Notes and new denomination notes on sale of their products and deposited in banks, however the addition made only on account of sales made in Specified Bank Notes are contrary to the facts of the case of the appellant and therefore the addition made on accounted cash in books of the appellant is contrary to the section 69A of the Income Tax Act, 1961 and therefore addition made may please be deleted.

5. That the learned CIT(A) has erred in making the absence of debtor confirmations decisive of the appeal, when the Appellant had discharged the initial onus by furnishing the name, complete address, Permanent Account Number, amount and party-wise ledger account of every payer, and when neither the learned Assessing Officer nor the learned CIT(A) made any enquiry whatsoever under Section 133(6) or Section 131 of the Act with any of the parties so identified. Having declined to exercise the statutory powers available to him, the Revenue cannot draw an adverse inference against the Appellant for want of confirmations.

6. That the learned CIT(A) has erred in law and exceeded his jurisdiction in sustaining the addition u/s 69A or section 68, The CIT(A) himself confused under which section it should be added, however sustain the addition mechanically without any material finding on the issue is against the principal of justice and therefore the addition made by A.O. u/s 69A of Rs. 34,40,123/- is required to be deleted.

7. That the learned CIT(A) has erred in applying the test of human probabilities drawn from CIT v. Durga Prasad More (1971) 82 ITR 540 (SC) and Sumati Dayal v. CIT (1995) 214 ITR 801 (SC) to a case where the apparent is supported by audited books, quantitative stock records reported to a public sector oil marketing company, VAT returns and a complete identification of every payer, none of which has been dislodged by any material brought on record by the Revenue, comparative data of F.Y. 2015-16 and F.Y. 2016-17 etc. Suspicion, however strong, cannot take the place of proof.

8. That, without prejudice to the foregoing, the learned CIT(A) has erred in upholding the levy of tax under Section 115BBE at the enhanced rate of 60% (with surcharge and cess, an effective rate of 77.25%) for A.Y. 2017- 18, failing to appreciate that the enhanced rate was introduced by the Taxation Laws (Second Amendment) Act, 2016, which received the assent of the President on 15.12.2016, that is, after the transactions in question had already taken place between 08.11.2016 and 30.12.2016, and that the amendment operates prospectively. Reliance is placed on the decision of the Hon'ble Ahmedabad Bench of the Tribunal in Naranbhai Samatbhai Bharwad v. ITO, I.T.A. No. 272/Ahd/2024, and on the decision of the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Ltd. v. ACIT. At the highest, the addition could have been subjected to tax only at the pre-amended rate of 30%.

9. That the penalty initiated under Section 271AAC of the Act is consequential to the addition under Section 69A read with Section 115BBE, and the Appellant reserves the right to contend that no penalty is exigible in view of the fact that no default within the meaning of Section 271AAC has been committed, the Appellant having furnished his return of income regularly and having offered a complete explanation of the receipts and hence it required to be dropped.

10. That the learned CIT(A) has erred in confirming the charge of interest under Sections 234A, 234B and 234C of the Act. The Appellant has committed no default under Section 210 or in the payment of advance tax, and the interest, being consequential upon an addition which is itself unsustainable, requires to be deleted.

11. That the Appellant craves leave to add to, amend, alter, modify, substitute or delete any of the above grounds of appeal, and to adduce additional evidence and additional grounds, whether legal or factual, at or before the hearing of the appeal.

3. The facts of the case are that the assessee is an individual carrying on business as the sole proprietor of M/s. Shree Krishna Petroleum, a retail outlet of Indian Oil Corporation Limited situated at Drive-in-Road, Memnagar, Ahmedabad, engaged in the sale of petrol, diesel and lubricants. The assessee has been carrying on this business since 17.12.2003. For the year under consideration, the assessee filed the return of income on 26.10.2017, declaring total income of Rs.32,13,200/- . The case was selected for scrutiny, and the Assessing Officer issued notices under sections 143(2) and 142(1) of the Act. During the assessment proceedings, the assessee furnished audited financial statements, tax audit report, bank

statements, cash books, sales and purchase registers, stock records, VAT returns and comparative details of cash sales and cash deposits for Financial Years 2015-16 and 2016-17.

3.1 The Assessing Officer noticed that the assessee had received cash amounting to Rs. 34,40,123/- from debtors during the demonetisation period. The assessee furnished party-wise details, including names, addresses, Permanent Account Numbers and ledger accounts of the concerned parties. However, the Assessing Officer was not satisfied with the explanation, principally because confirmations from the debtors had not been furnished and because, in his view, the acceptance of Specified Bank Notes by petrol pumps was restricted under the applicable RBI instructions. Accordingly, the Assessing Officer, vide order dated 23.12.2019 passed under section 143(3) of the Act, made an addition of Rs. 34,40,123/- under section 69A of the Act and applied section 115BBE. The total income was assessed at Rs. 66,53,320/-.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A), vide order dated 16.07.2026, dismissed the appeal and confirmed the addition. Being dissatisfied with the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal.

5. The Ld. Counsel for the assessee submitted that the disputed cash receipts were duly recorded in the regular books of account and represented collections from regular customers against outstanding dues arising from the sale of petroleum products. It is submitted that the books of account were audited and supported by stock records, sales and purchase registers, VAT returns and other contemporaneous documents. The assessee further submits that complete party-wise particulars were furnished before the Assessing Officer and that no independent enquiry was conducted by issuing notices under section 133(6) or summons under section 131 of the Act to verify the transactions. The books of account were neither rejected nor were any specific defects identified in the sales, stock or purchase records. It is also contended that the addition under section 69A

is unsustainable because the amount in question was recorded in the books of account. The assessee argues that the mere receipt of cash in Specified Bank Notes during the demonetisation period does not, by itself, establish that the money was unexplained under the provisions of the Act. The assessee has accordingly prayed that the addition of Rs. 34,40,123/- and the consequential tax liability be deleted.

6. On the other hand, Ld. DR, appearing for the Revenue, has supported the orders of the lower authorities.

7. We have considered the grounds of appeal, the facts of the case, the assessment order and the impugned order of the Ld. CIT(A). The issue requiring adjudication is whether the addition of Rs. 34,40,123/- made under section 69A of the Act and confirmed by the Ld. CIT(A) can be sustained.

7.1. In the present case, the assessee has consistently contended that the amount of Rs. 34,40,123/- was recorded in the regular books of account as cash received from identified debtors against outstanding dues arising from the business of selling petroleum products. The Ld. CIT(A) has also acknowledged that the relevant entries were recorded in the assessee's books of account. The dispute, therefore, primarily concerns the nature and source of the receipts and the adequacy of the supporting evidence.

7.2. We find that the assessee furnished party-wise details of the persons from whom the cash was received, along with their addresses, PANs and ledger accounts. The assessee also produced audited financial statements, cash books, sales and purchase registers, stock records and VAT returns. These documents go to the root of examining the veracity of the receipts if they arose from the assessee's regular business activities.

7.3. No specific defect was identified in the stock records, sales registers, purchase registers or VAT returns. The declared turnover and book results were accepted, notwithstanding the addition made in respect of the disputed receipts.

7.4. The absence of confirmations from the debtors was relied upon by the lower authorities as a principal reason for making and sustaining the addition. However, the absence of confirmations, by itself, cannot be treated as conclusive where the assessee has furnished identifiable particulars of the parties and supporting books of account. The evidence furnished was required to be examined in its entirety, and the explanation could not be rejected merely on the basis of suspicion without appropriately considering the available documentary material. It could not be the case where the debtors are said to have been raised after the demonetization. We also find merit in the contention that the acceptance of Specified Bank Notes during the demonetisation period, by itself, does not automatically render the receipts unexplained under the Income-tax Act. The permissibility of accepting such notes under the applicable notifications or RBI instructions and the tax treatment of receipts under the Act are distinct questions. Any restriction under the applicable instructions may be relevant to examining the surrounding circumstances, but it cannot, *ipso facto* without more, establish that the source of the cash receipts was unexplained for purposes of section 69A.

7.5 In the present case, the assessee has furnished a plausible explanation that the disputed amount represented collections from regular customers against business dues. The explanation is supported by party-wise ledger accounts and other business records. No contrary material has been identified to establish that the receipts represented undisclosed income unrelated to the business. The lower authorities have principally relied upon the absence of confirmations and the circumstances of demonetisation, without adequately rebutting the documentary evidence furnished by the assessee. We further observe that the Ld. CIT(A) referred alternatively to section 68 of the Act while sustaining the addition originally made under section 69A. Although the appellate authority may examine the correct legal provision applicable to the facts, such an exercise must be undertaken after giving the assessee a fair opportunity to address the proposed basis of the addition. In any event, the change in the statutory provision cannot substitute for the substantive requirement of examining the nature and source of

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the receipts in light of the evidence available on record. Having regard to the facts and circumstances of the case, we find that the assessee maintained regular books of account, furnished party-wise particulars of the debtors and produced supporting business records. The Assessing Officer did not reject the books of account or identify specific defects in the underlying business records, nor did the lower authorities undertake independent verification of the identified parties. The addition has, therefore, been sustained without adequately establishing that the amount represented unexplained money within the meaning of section 69A of the Act.

7.6 In view of the foregoing discussion, we hold that the addition of Rs. 34,40,123/- made under section 69A of the Act and confirmed by the Ld. CIT(A) is not sustainable on the facts and evidence available on record. Accordingly, the addition is deleted, and Grounds Nos. 2 to 7 of the assessee's appeal are allowed.

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

The order pronounced in the open Court on 19.10.2026.

**Sd/-
(TAPAS RAM MISRA)
JUDICIAL MEMBER**

(True Copy)

**Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

Ahmedabad; Dated 19.10.2026
MV

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

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

आदेशानुसार/ BY ORDER,

**सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**