

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

**BEFORE SHRI M BALAGANESH, ACCOUNTANT MEMBER
AND
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

ITA No.896/Del/2026
Assessment Year: 2017-18

Rajender Kumar, B-341, Prashant Vihar, New Delhi – 110 085.	Vs.	ITO, Ward-35(8), New Delhi
PAN AABCH6698H		
(Appellant)	:	(Respondent)
Assessee by	:	Shri Saubhagya Agarwal, Adv.; Shri V. Rajakumar, Advocate; & Ms Suman Jain, CA
Respondent by	:	Shri Rajesh Tiwari, Sr. DR
Date of Hearing	:	03.06.2026
Date of Pronouncement	:	19.08.2026

ORDER

Per Kavitha Rajagopal, JM:

This appeal is filed by the assessee, challenging the order of the Learned Commissioner of Income Tax (Appeals) ['Ld. CIT(A)' for short], passed u/s 250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2017-18.

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

“1. That the Ld. CIT (A) is erred under the law and facts while partly confirming the order as passed by the AO.

2. That on the facts and circumstances of the case, the Ld. CIT (A) is erred under the law and facts while confirming the addition of Rs.50,41,161/- u/s 69 A of the Act as the impounded sum does not belong to the appellant.

3. That on the facts and circumstances of the case, the Ld. CIT (A) is erred under the law and facts while confirming the addition of Rs.50,41,161/- u/s 69 A of the Act as the appellant has furnished sufficient evidence in support of money transfer business.

4. That the CIT (A) has failed to appreciate that legality of source of income has nothing to do with its taxability under the law.

5. That the CIT(A) is erred under the law while not adjusting upon the additional ground as taken by the appellant for imposition of tax liability as per amended provisions of section 115BBE of the Act by the AO.

6. That all the grounds of appeal raise herein above are independent ground and without prejudice to each other.

7. That the appellant craves leave to add, alter, amend, substitute and/or modify in any manner whatsoever all or any of the foregoing grounds of appeal at or before the hearing of the appeal.”

3. Brief facts of the case are that the assessee is an individual and had filed his return of income dated 31.0.2018 declaring the total income at Rs.4,25,570/- and the same was processed u/s 143(1) of the Act. The assessee's case was selected for limited scrutiny through CASS for examination of the source of cash deposit made during the year under consideration. The Ld. AO issued notice u/s 143(2) and 142(1) of the Act which were duly issued and served upon the assessee. The Ld.

AO observed that the assessee has derived 'Income from business and profession' u/s 44AD of the Act and from 'Other sources' which the assessee has declared as gross receipts amounting to Rs.7,58,460/- during the year under consideration. The Ld. AO observed that the assessee has made cash deposits in various bank accounts aggregating to Rs.75,73,335/- the details of which are tabulated hereunder:-

Bank Name	A/c	Amount of cash deposits during the year
Bank of India	608820110000115	72,17,335/-
Bank of India	608810110000134	40,000/-
Karur Vysya Bank	4104153000005466	2,30,000/-
Punjab and Sind Bank	08931000201410	86,000/-
	Total	75,73,335/-

4. The ld. AO sought for details pertaining to the abovementioned cash deposit which the assessee has failed to explain with supporting documentary evidence. The Ld. AO passed the assessment order u/s 143(3) of the Act dated 17.12.2019 determining the total income at Rs.79,98,875/-, after making an addition of Rs.75,73,335/- as unexplained cash deposits u/s 69A of the Act. Aggrieved, the assessee was in appeal before the First Appellate Authority, who, vide order dated

29.12.2025 had partly allowed the appeal filed by the assessee holding that the assessee has explained the nature and source of Rs.25,32,174/- and restricted the addition to the remaining amount of Rs.50,41,161/-. Aggrieved by the said order, the assessee is in appeal before us challenging the order of the Ld.CIT(A).

5. The ld. AR for the assessee contended that the assessee was engaged in providing DEN cable network services, acting as an agent for mobile recharge, bill payment and direct money transfer services by collecting cash from customers on behalf of service providers and depositing the same into the assessee's bank account and remitting it to those companies. The Ld. AR further contended that the assessee retains only commission income which has already been offered to tax u/s 44AD of the Act. The Ld. AR also stated that the assessee has furnished bank statements, invoices, daily cash collection registers and other documents before the lower authorities which were not considered by neither the Ld. AO nor the Ld.CIT(A). The Ld. AR elaborated on the nature of business activities carried out by the assessee along with the details of daily cash collection register, cash flow statements and the summary of payments made to the principal service providers out of the said bank accounts and also the details of payment of commission by the service provider companies to the assessee. The Ld. AR also challenged the imposition of tax by the Revenue u/s 115BBE of the Act by imposing tax at

enhanced rate without specifying the sum that has been added out of cash deposit before 16.12.2016 on the ground that the amendment to the existing statute is only intended to remove hardship for the assessee and the same would not be applicable to the Revenue for which the Ld. AR relied on the decision of the Hon'ble Apex Court in the case *CIT vs. Vatika Township Pvt. Ltd., 227 Taxmann 121*, along with a catena of other decisions in support of his contention. The Ld. AR also stated that substantial law would be applicable only prospectively unless it is specified to be retrospective and, hence, prayed that the impugned addition be deleted.

6. The Ld. DR, on the other hand, controverted the said facts and stated that the assessee has not discharged the onus cast upon him as per the provisions of Section 69A of the Act with supporting documentary evidences. The Ld. DR further specified that the assessee has furnished only evidences substantiating payments made to DEN Networks Ltd., towards DTH services to various entities along with the ledger account by DEN Networks Ltd., and only after considering the same, the Ld.CIT(A) had deleted the addition to the extent of Rs.25,32,174/- as being substantiated by the assessee. The ld. DR contended that with regard to the remaining cash deposit of Rs.50.41 lakhs, the Ld.CIT(A) upheld the addition on

the ground that the assessee has failed to produce the relevant documentary evidences. The Ld. DR prayed for upholding the order of Ld.CIT(A).

7. We have heard the rival contentions and perused the material available on record. It is observed that the Ld.CIT(A) has restricted the addition made by the Ld. AO on the ground that the assessee has failed to furnish the following documentary evidences:-

- Valid authorisation, licence or approval issued by the Reserve Bank of India or any other competent statutory authority permitting him to carry on the business of money transfer services, especially involving cash transactions of such magnitude;
- Agreement, contract or agency arrangement with entities such as Bankit Services Pvt. Ltd., Eko India Financial Services, Mobisafar, Payism Global, Quicksun Technologies Pvt. Ltd. or Transerv, authorising him to collect cash from customers and effect money transfers on their behalf during the relevant period;
- Confirmations from the aforesaid entities acknowledging that the appellant had acted as their agent and that the cash deposited in his bank accounts represented collections made on their behalf;

- Ledger accounts, commission statements, reconciliation statements or other contemporaneous records issued by such entities to demonstrate that the appellant was entitled only to commission income and not the entire amounts deposited in his bank accounts; and
- Evidence to establish compliance with the statutory and regulatory framework governing money transfer activities, particularly during the demonetisation period, when the acceptance, handling and circulation of demonetised currency were subject to strict legal restrictions.

8. In addition to the abovesaid evidences, the Ld.CIT(A) held that the assessee has not maintained regular books of account, thereby failing to prove the valid authorisations and third party corroborations to discharge his onus cast upon as per Section 69A of the Act. Further, the Ld.CIT(A) contends that the assessee has not furnished details as to from whom the alleged cash was received along with the identity and capacity of the payers and genuineness of the transaction holding the same to be circular transactions without any commercial substance transgressing to hawala transactions in which the assessee was merely acting as a conduit or pass-through entity. The Ld.CIT(A) has also stated that the assessee himself has not given explanation for the source amounting to Rs.9,63,161/- for the reason that the assessee's explanation for cash deposit was only for Rs.66.10 lakh as against the

total cash deposit of Rs.75.73 lakhs. The ld.CIT(A) restricted the addition to Rs.50.41 lakhs on the said observation.

9. In the above facts of the case, it is observed that the assessee has been deriving commission income for providing services pertaining to cable network and online mobile recharge services to its retail customers on behalf of various telecom companies and was also acting as money transfer agent/sub-agent through online portal for various online money transfer companies like Mobisafar, Eko India Financial Services, Oxigen Services India Pvt. Ltd., Payism Global, etc., which is tabulated hereinunder:-

Name of the service provider	Nature of Business	Amount
Bankit services Pvt Ltd / Aadhaar Enabled Payment System	Online Money Transfer	12,10,000.00
Den Networks Limited	DTH	11,37,174.00
Eko India Financial Services	Online Money Transfer	2,05,000.00
Mobisafar	--do--	20,33,000.00
Oxigen Services India Pvt. Ltd.	Mobile Recharge/ Bill payment	5,10,000.00
Payism Global	Online Money Transfer	2,80,000.00
Quicksun Technologies Pvt Ltd	--do--	1,30,000.00
Tata Tele Nxtgen Solutions Limited	Mobile Recharge	8,85,000.00
Transerv	Online Money Transfer	2,20,000.00

10. The assessee's contention that the source of cash deposit in his bank accounts pertains to the customers who has availed services which are mentioned above in the tabular column from the assessee, which money, received by the assessee was deposited in the bank account maintained by the assessee and later on remitted to the various telecom companies. The assessee contended that since the assessee has filed his return as per the provisions of Section 44AD of the Act he has not maintained any books of account and was unable to furnish date-wise cash book as sought for by the Ld. AO. The assessee has also submitted that he has offered the commission income received from his business activities to tax and was of the belief that he was not entitled to maintain any books of account since the cash was deposited in his bank accounts. The assessee has also furnished sample copies of the cash register maintained in the regular course of business which evidences that the assessee was collecting cash on a regular basis from various individuals and retail customers on day-to-day basis and the same were deposited in the bank accounts. Further, it is observed that the online transfers made to service provider companies for payment towards money transfer/telecommunication companies/DTH services are out of service provided to the customers by the assessee on behalf of the said companies. The assessee has also furnished bank statements to show that the assessee has made payments to various vendors out of cash deposited in the bank account and the same is further

corroborated by the fact that the assessee has received commission income from such service providers which was duly offered to tax in the ITR.

11. On the above factual matrix of the case, it is observed that the Ld.CIT(A) has partially accepted the assessee's explanation with regard to the cash deposits made on behalf of DTH/mobile recharge service providers for which it was held that only commission income was to be taxable, but, the Ld.CIT(A) has also restricted the addition to the remaining balance merely because the assessee has failed to produce certain documents such as the RBI authorisation, agency agreements, confirmation from service providers, commission statements, regulatory compliance documents and books of account. This reasoning given by the Ld.CIT(A) is not justifiable for the reason that the provisions of Section 69A of the Act mandates that the assessee should satisfactorily explain the nature of money and its source. In the present case in hand, the Ld.CIT(A) has gone beyond the requirement of the provision, seeking for the regulatory compliance under RBI regulations, as to whether the assessee possessed an RBI licence to establish that there was violation of the RBI regulations, which cannot be a subject of inquiry with regard to the provisions of Section 69A of the Act is concerned. The relevant extract of the said provisions of Section 69A of the Act are cited hereinunder for ease of reference:-

“Unexplained money, etc.

69A. Where in 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."

12. On a bare perusal of the said provision, it can be concluded that the provision emphasises that when the assessee is found to be the owner of any money, bullion, jewellery or other valuable article which is not recorded in the books of account and for which the assessee offers no explanation about the nature and source of acquisition of the said money, bullion, jewellery or other valuable article to the satisfaction of the Ld. AO, then, the same may be deemed to be the unexplained income of the assessee. Therefore, the assessee's onus is to satisfactorily explain the nature of money and its sources and not about the regulatory compliances as warranted by the lower authorities. Further, when the assessee has prima facie produced all evidences for explaining the deposits, then, the burden shifts to the Revenue to rebut that evidence for which the Ld. AO has not given any finding as to whether he has verified the alleged service provider, issued notices, examined bank trails or disputed the remittances. Instead, the explanation of the assessee is rejected largely because the assessee has not filed any additional documents, including that which relates to the RBI regulations.

Further, though the Ld.CIT(A) has observed that these are non-genuine transactions or hawala transactions, the same is unsupported by any factual investigations recorded in the order with regard to such investigation, if any, conducted with regard to hawala activities or accommodation entries pertaining to which any beneficiaries were identified. We are conscious of the fact that the courts have consistently held that suspicion however strong cannot replace proof. The assessee has been reiterating that cash was collected, deposited and, thereafter, remitted to different entities which fact can be easily verified from the bank statements provided by the assessee to show whether there was continuous flow of funds, was not analysed by the lower authorities with regard to the complete money trails resulting in incomplete appreciation of evidence. Though the Ld.CIT(A) has accepted that the assessee was carrying on DTH collection, mobile recharge, bill payment and has acted as a collection agent, he proceeds to dismiss the assessee's contention with regard to the remaining deposits, without explaining as to why the same business model cannot be extended to other service providers leaving an inconsistency in the conclusion arrived at by the Ld. CIT(A). This arbitrary finding of the Ld.CIT(A) does not satisfy the requirements of the provisions of law. Therefore, we do not find any justification in upholding the order of the Ld.CIT(A) as we are of the considered opinion that the order of the Ld.CIT(A) ought to be set aside with the direction to delete the impugned addition

made in the hands of the assessee, where the assessee has discharged the primary onus cast upon him as per the provisions of law. Hence, the grounds of appeal raised by the assessee are hereby allowed.

13. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 19.08.2026.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Dated, 19th August, 2026

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI