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

BEFORE SH. SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 2977/Del/2026
(Assessment Year : 2017-18)

DCIT Room No.316A, 3rd Floor, CR Building IP Estate, New Delhi – 110 002 **PAN No. AAACJ 1534 H**	Vs.	**Jeewan Hospital and Nursing Home Pvt. Ltd.** 150, Jeewan Nagar New Delhi – 110 014
(APPELLANT)		(RESPONDENT)

Assessee by	Ms. Ananya Kapoor, Adv. and Shri Shashwat Bajpai, Adv.
Revenue by	Shri Bhogendra Prasad, Sr. D.R.

Date of hearing:	19.08.2026
Date of Pronouncement:	25.08.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER :

This captioned appeal has been filed by the Revenue against the order of the learned Commissioner of Income Tax (Appeals)/NFAC-Delhi ['CIT(A)/NFAC' in short] dated 13.01.2026 arising from the assessment order under section 143(3) of the Income Act, 1961 [hereinafter referred as the 'the Act'] dated 22.12.2019 passed by the

Assessment Unit, Income Tax Department for the assessment year 2017-18.

2. The grounds of appeal raised by the Revenue are as under :

> *"1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 1,80,00,000/- made by the Assessing Officer under section 68 of the Income-tax Act, 1961 on account of unexplained cash deposits in Specified Bank Notes (SBNs) during the demonetization period, without properly appreciating the detailed findings and analysis recorded by the Assessing Officer in the assessment order*
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> *2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in ignoring the findings of the Assessing Officer that cash expenses during the relevant period had decreased unnaturally despite a substantial increase in cash receipts, thereby creating an abnormal build-up of cash in hand immediately before demonetization.*
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> *3. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in accepting the explanation of the assessee regarding higher patient load and increased business activity without any supporting documentary evidence linking the alleged increase in patient inflow or disease outbreaks with the substantial rise in cash receipts and deposits.*
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> *4. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that no addition could be made because the books of accounts were not rejected under section 145(3) of the Act, ignoring the settled legal position that an addition under section 68 can be made even when the books of account are maintained if the nature and source of credits is not satisfactorily explained.*
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> *5. On the facts and circumstances of the case and in law, the Ld. CIT(A) failed to appreciate that the assessee could not satisfactorily explain the abnormally high cash in hand as on the dates immediately preceding demonetization, which was significantly higher than the cash position on similar dates in preceding years.*
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> *6. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in ignoring the principle of "test of human probabilities" as laid down by the Hon'ble Supreme Court in Sumati Dayal v. CIT (214 ITR 801) and accepted the explanation of the assessee without examining the surrounding circumstances indicating that the cash deposits were not arising from genuine business receipts.*
>
> *7. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that the Assessing Officer had not brought any independent evidence on record to establish that the deposits represented undisclosed*

income, ignoring that the burden of proof under section 68 lies on the assessee to satisfactorily explain the nature and source of the credits, which the assessee failed to discharge.

8. On the facts and circumstances of the case and in law, the Ld. CIT(A) failed to appreciate that mere recording of transactions in the books of account does not automatically establish their genuineness when the surrounding circumstances indicate otherwise. Reliance is placed on: PCIT v. NRA Iron & Steel Pvt. Ltd. (412 ITR 161) (SC) Entries in books are not sufficient; the assessee must prove the genuineness of the transaction

9. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in relying upon certain judicial precedents without appreciating that the facts of the present case were materially different, particularly in view of the abnormal cash pattem, unexplained reduction in cash expenses and inconsistency between patient data and cash deposits.

10. That the appellant craves leave to add, alter, amend, modify or withdraw any of the above grounds of appeal at or before the time of hearing of the appeal."

3. Brief facts of the case are that the assessee is a company, e-filed its original return of income for A.Y. 2017-18 on 30.10.2017 declaring income of Rs.1,25,63,340/- under normal provisions and income of Rs. 1,33,61,734/- under section 115JB of the Act. Notice under section 143(2) of the Act was issued and served on the assessee on 30.09.2018. The ld. AO held that the cash deposit of Rs. 1,80,00,000/- during the demonetization period were unexplained deposit and added the same u/s 68 of the Act.

4. Being aggrieved with the assessment order, assessee filed appeal before the ld. CIT(A), who allowed the appeal. Now the further aggrieved Revenue is in appeal before us.

5. Before us, the ld. counsel for the Revenue vehemently submitted that the cash deposits in bank were not related to increased flow of patient.

6. Per contra, the ld. AR relied on the order of the CIT(A) and argued that the addition were made without rejecting the books of account and without there being any evidence and was made on the basis of conjectures and surmises.

7. We have heard the rival submissions and have perused the relevant material on record. In the instant case, we find that the assessee has attempted to prove the entire source of cash deposit during demonetization period as being from higher business turnover from patients. On the other hand, the Revenue's endeavour to disbelieve the assessee's contention that cash deposit has been made out of higher hospital fees, cannot be fully justified. In this factual matrix, there is some element of failure to explain some of the cash deposit, cannot be ruled out. Be that as it may, it is deemed appropriate, in larger interest of justice, that a lump-sum addition of Rs. 5 lakh only would be just and proper with a rider that the same shall not be treated as a precedent, so as to cover all loopholes. The Revenue's ground on this count is partly allowed.

8. In so far as levy of tax at a higher rate under section 115BBE of the Act is concerned, we find that the Madras High Court in the Writ petition in the case of ***S.M.I.L.E. Microfinance Ltd. Vs. ACIT***, W.P. (MD) No.2078 of 2020 & 1742 of 2020, dated 19.11.2024 (Madras) has held that the impugned statutory provision would come into effect ***on the transaction done on or after 01.04.2017 only***. Accordingly, we direct the AO to tax the addition under normal provisions of tax and not under the provisions of 115BBE.

9. In the result, appeal of the Revenue in ITA No. 2977/Del/2026 is partly allowed.

Order pronounced in the open court on 25.08.2026

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

Date:- 25.08.2026

*Priti Yadav, Sr. Ps**

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

ASSISTANT REGISTRAR
ITAT NEW DELHI