2026:AHC-LKO:24918-DB

**A.F.R.**

**HIGH COURT OF JUDICATURE AT ALLAHABAD**
**LUCKNOW**
**INCOME TAX APPEAL No. - 4 of 2026**

Principal Commissioner Of Income Tax I, Lucknow
.....Appellant(s)

Versus

Medharaj Techno Concept Pvt. Ltd. Thru. Authorized Person
.....Respondent(s)

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Counsel for Appellant(s) : Kushagra Dikshit, Neerav Chitravanshi
Counsel for Respondent(s ) : P.K. Bajaj

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**Court No. - 3**

**HON'BLE SHEKHAR B. SARAF, J.**
**HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

**1.** Heard learned counsel for the petitioner and Sri P.K. Bajaj, learned counsel for the respondent.

**2.** This is an appeal filed under Section 260 A of the Income Tax Act, 1961, by the revenue interdicting the judgment and order dated 22.08.2025 passed by the Income Tax Tribunal, Lucknow for the Assessment Year 2017-18:-

**3.** The revenue has raised the following substantial questions of law:-

> "1. Whether, on the facts and in the circumstances of the case, the Ld. ITAT was justified in law in deleting the addition made under section 68 of the Income-tax Act, 1961, merely on the basis of availability of cash balance in the books of account, without examining whether the assessee had discharged the statutory onus of proving the genuineness and credibility of such cash balance?
>
> 2. Whether the Ld. ITAT erred in law in holding that the Assessing Officer could not make an addition under section 68 when the books of account were not rejected, ignoring the settled legai principle thatunexplained cash credits can be brought to tax independently of rejection of books?
>
> 3. Whether the Ld. ITAT was correct in law in overlooking the

> relevance of abnormal cash deposits during the demonetisation period and in failing to apply the test of human probabilities, surrounding circumstances, and past business trends while adjudicating the issue under section 68?
>
> 4. Whether the Ld. ITAT has misapplied the ratio of decisions relating to suspicion versus proof, by treating a case involving unexplained cash deposits during demonetisation as one of mere estimation or conjecture, rather than one involving statutory burden of proof under section 68?"

**4.** Primarily, the issue engaging the attention of this Court in the present appeal is with regard to whether Tribunal has acted in a proper manner in appreciating the evidence that was provided by the assessee with regard to cash deposits made by them during the demonetization period so as to allow the appeal in their favour.

**5.** This Court finds that the Tribunal after considering all the evidences came to the conclusion that books of the assessee were duly audited and the Assessing Officer had not pointed out a single defect in the said books. The Tribunal further held that the Assessing Officer had completely disregarded the voluminous evidences filed by the assessee and had proceeded to disbelieve the explanation of the assessee without bringing on record anything to the contrary. The Tribunal while setting aside the assessment order arrived at a finding that the Assessing Officer had acted on presumption and on preponderance of probability and not on the evidences available on record. The relevant portion of the judgment of Tribunal is delineated below:-

> *"11. Though preponderance of probability is an accepted principle to judge reliability of evidences as held by the various Hon'ble Courts in plethora of cases but its application in judging the quality of evidences should be done in a reasonable manner. The action of the AO is not reasonable in as much as he was not able to point any defect in the books of account of the assessee. When as per the submission of the assessee, cash in hand was the source of the impugned cash deposit, then some further enquiries ought to have been made by the AO before rejecting the Assessee's explanation outright.*
>
> *12. It will not be out of place at this juncture to refer to the*

*judgment of the Hon'ble Apex Court in the case of Dhakeshwari Cotton Mills Ltd vs. CIT (1954) 26 ITR 775 (SC) on the issue of suspicion vs. proof. The Hon'ble Apex Court held as under:*

> *"As regards the second contention, although ITO is not fettered by technical rules of evidence and pleadings, and that he is entitled to act on material which may not be accepted as evidence in a court of law, but there the agreement ends; because it is equally clear that in making the assessment under section 23(3) he is not entitled to make a pure guess and make an assessment without reference to any evidence or any material at all and there must be something more than bare suspicion to support the assessment under section 23(3). The rule of law on this subject has been fairly and rightly stated by the Lahore High Court in the case of Seth Gurmukh Singh v. CIT [1944] 12 393. In the instant case, the Tribunal violated certain fundamental rules of justice in reaching its conclusions. Firstly, it did not disclose to the assessee what information had been supplied to it by the departmental representative. Next, it did not give any opportunity to the assessee to rebut the material furnished to it by him, and lastly, it declined to take all the material that the assessee wanted to produce in support of its case. The result was that the assessee had not had a fair hearing. The estimate of the gross rate of profit on sales, both by the ITO and the Tribunal, was based on surmises, suspicions and conjectures. The Tribunal took from the representative of the department a statement of gross profit rates of other cotton mills but did not show that statement to the assessee did not give him a opportunity to show that statement had no relevancy whatsoever to the case of the mill in question. It was not known whether the mills which had disclosed these rates were similarly situated and circumstanced. Not only did the Tribunal not show the information given by the representative of the department to the assessee, but it refused even to look at books and papers which assessee's representative produced before the Accountant Member in his chamber. The assessment in this case and in the connected appeal, was above the figure of Rs. 55 lakhs*

*and it was just and proper when dealing with a matter of this magnitude not to employ unnecessary haste and show impatience, particularly when it was known to the department that the books of the assessee were in the custody of the Sub-Divisional Officer. Thus both the ITO and the Tribunal in estimating the gross profit rate on sales did not act on any material but acted on pure guess and suspicion. It was thus a fit case for the exercise of power under Article 136.In the result, the appeal was to be allowed and the order of the Tribunal was to be set aside and the case was to be remanded to it with direction that in arriving at its estimate of gross profits and sales it should give full opportunity to the assessee to place any relevant material on the point that it has before the Tribunal, whether it is found in the books of account or elsewhere and it should also disclose to the assessee the material on which the Tribunal is going to found its estimate and then afford him full opportunity to meet the substance of any private inquiries made by the ITO if it is intended to make the estimate on the foot of those enquiries."*

*13. The issue of cash deposits during demonetization has come up before various Benches of this Tribunal. The Ld. AR has also referred to many such cases during the course of his arguments. The Pune Bench of the ITAT has recently, vide order dated 24.04.2023, in Usha Nararayan Chaware vs. ITO deleted the addition of cash deposits during demonetization on proper explanation as to utilization of the cash deposit. The Bench noted that "Once the availability of cash in hand was established and it was not shown by the AO that such cash was spent elsewhere, the explanation of the assessee as to its utilization has to be accepted."*

*14. Keeping the above cited judicial precedents in mind and also on the facts of this case, we are of the considered view that the AO was not legally correct in making the impugned addition that that the Ld. First Appellate Authority has rightly deleted the said addition. Accordingly, the grounds raised by the Department are dismissed.*

*15. In the final result the appeal of the Department is dismissed.***"**

**6.** Upon a perusal of the judgment of the Tribunal, it is crystal clear that the cash deposits by the petitioner during the period of demonetization were from the cash in hand that was available to the petitioner and was very much explained.

**7.** In light of the above, once the availability of the cash in hand was established and the Assessing Officer could not indicate anything to the contrary as to how that cash in hand was spent, the explanation of the assessee that the cash in hand was deposited in the banks could not have been rejected by the Assessing Officer. We are of the view that no substantial question of law arises in the present case, as there is no perversity in the findings of the Tribunal whatsoever.

**8.** The Hon'ble Apex Court has defined 'perversity' by tracing various earlier precedents in the case of ***Arulvelu v. State reported in (2009) 10 SCC 206*** wherein the Supreme Court arrived at a conclusion, which is extracted hereinbelow:

> *"24. The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad ((2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*
>
> *25. In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665: AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*
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> *26. In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR Ir 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined "perverse" as turned the*

*wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.*

*27. The expression "perverse" has been defined by various dictionaries in the following manner:*

*1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn.*

*"Perverse. Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable."*

*2. Longman Dictionary of Contemporary English, International Edn.*

*Perverse. Deliberately departing from what is normal and reasonable.*

*3. The New Oxford Dictionary of English, 1998 Edn.*

*Perverse. Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.*

*4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)*

*Perverse. Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.*

*5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.*

*"Perverse. A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence."*

**9.** Furthermore, the Hon'ble Supreme Court in the case of ***S.R. Tewari v. Union of India reported in (2013) 6 SCC 602*** has laid down the attributes of perversity in the following manner:-

*"30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be*

*perverse if it is "against the weight of evidence", or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide Rajinder Kumar Kindra v. Delhi Admn. [(1984) 4 SCC 635: 1985 SCC (L&S) 131: AIR 1984 SC 1805], Kuldeep Singh v. Commr. of Police [(1999) 2 SCC 10: 1999 SCC (L&S) 429: AIR 1999 SC 677], Gamini Bala Koteswara Rao v. State of A.P. [(2009) 10 SCC 636: (2010) 1 SCC (Cri) 372: AIR 2010 SC 589] and Babu v. State of Kerala [(2010) 9 SCC 189: (2010) 3 SCC (Cri) 1179].)"*

**10.** The Delhi High Court in case of **CIT v. Ajay Kapoor reported in 2013 SCC OnLine Del 2779** has further elaborated as to what constitutes 'perversity'. The relevant paragraphs of the judgment are extracted below:

*"14. Perversity, in the present case, is occasioned due to two reasons: firstly, by wrongly placing onus on the revenue though the facts were in personal knowledge of the assessee, and secondly, by ignoring the admission of the respondent that they had indulged in unaccounted sales of Rs. 9.7 crores. In spite of admission and the seized document, it has been observed that there was no material with the revenue to prima facie justify any addition towards unrecorded investment in stock. Allegations, in the present case, are not based upon weighing of evidence but for altogether a wrong decision. The decision suffers from vice of irrationality, rendering it infirm in law. In Municipal Committee, Hoshiarpur v. Punjab SEB (2010) 13 SCC 216 it has been held that:*

> *"28. If a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then the finding is rendered infirm in the eye of the law. If the findings of the Court are based on no evidence or evidence which is thoroughly unreliable or evidence that suffers from the vice of procedural irregularity or*

> *the findings are such that no reasonable person would have arrived at those findings, then the findings may be said to be perverse. Further if the findings are either ipse dixit of the Court or based on conjecture and surmises, the judgment suffers from the additional infirmity of non-application of mind and thus, stands vitiated. (Vide Bharatha Matha v. R. Vijaya Renganathan [(2010) 11 SCC 483: AIR 2010 SC 2685].)"*

*15. Earlier in Dhirajlal Girdharilal v. CIT (1954) 26 ITR 736 (SC) it was observed:-"*

> *....if the court of fact, whose decision on a question of fact is final, arrives at this decision by considering material which is irrelevant to the enquiry, or by considering material which is partly relevant and partly irrelevant, or bases its decision partly on conjectures, surmises and suspicions, and partly on evidence, then in such a situation clearly an issue of law arise....*
>
> *.....It is well established that when a court of fact acts on material, partly relevant and partly irrelevant, it is impossible to say to what extent the mind of the court was affected by the irrelevant material used by it in arriving at its finding. Such a finding is vitiated because of the use of inadmissible material and thereby an issue of law arises,"*

*16 . In CIT v. Daulat Ram Rawat Mull (1973) 87 ITR 349 it has been held that onus of proving what is apparent is not real is on the party who claims it to be so. There should be direct nexus between the conclusions of fact arrived at, or inferred, and the primary facts upon which the conclusion is based. When irrelevant consideration and extraneous materials form the substratum of an order, or the authority has proceeded in a wrong presumption which is erroneous in law, as in the present case, question of law arises and when the said contention is found to be correct, then the order is perverse. A factual decision is perverse when it is without any evidence or when the factual decision, in view of the fact on record, cannot be reasonably entertained. Finding based upon surmises, conjectures or suspicion or when they are not rationally possible have to be struck down. In CIT v. S.P. Jain (1973) 87 ITR 370 (SC)*

> *it has been observed that a factual conclusion is regarded as perverse when no person duly instructed or acting judicially could upon the record before him, have reached the conclusion arrived at by the tribunal/authority."*

**11.** As a sequel to the aforesaid judgment of the Hon'ble Supreme Court and High Court, we are of the view that unless there is perversity in the findings of fact, no substantial questions of law would arise. Further more, as far as the present case is concerned, we find that findings of the Tribunal are supported by cogent evidence brought on record and they are not in any manner against law or suffers from any procedural irregularities.

**12.** Thus, we are unable to subscribe to the view of the learned counsel appearing for the revenue and reject that there is any perversity in the impugned judgment of the Tribunal. We hold that the findings are based on the available records that clearly indicates that the cash deposited in the banks was only the cash in hand available with the assessee. In the judgment of a Co-ordinate Division Bench of this Court one of us (Hon'ble Shekhar B. Saraf,J.) examined an identical issue wherein the Bench after examining a catena of judgments of Hon'ble Supreme Court and High Court categorically held in ***Pr. CIT, Bareilly, UP Vs. Dharam Singh; (2025) 342 CTR 653: 245 DTR 369 (Allahabad High Court)*** that unless there is perversity in findings of fact, no substantial questions of law would arise.

**13.** In the present case, keeping in view the findings arrived at by the Tribunal to be in great detail and based on evidence brought on record by the assessee, we do not find any perversity whatsoever nor any substantial questions of law arises, which is required to be decided.

**14. Accordingly, the appeal is dismissed.**

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**(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)**

**April 8 , 2026/**Anuj Singh