

आयकर अपीलीय अधिकरण
गुवाहाटी पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री मनमोहन दास, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 158/GTY/2024
& CO No. 01/GTY/2025
Assessment Year: 2018-19**

ITO, Ward 1, Agartala (Appellant)	Vs.	Bidhan Roy (Respondent)
PAN: AHGPR4718		

Appearances:

Department represented by : Kausik Ray, JCIT

Assessee represented by : None.

Date of concluding the hearing : March 24th, 2025

Date of pronouncing the order : March 25th, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order of the Commissioner of Income Tax (Appeals)- NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2013-14 dated 20.05.2024,



which has been passed against the assessment order u/s 147 r.w.s. 144 of the Act, dated 09.02.2022.

2. The revenue is in appeal before the Tribunal raising the following grounds of appeal:

“1 On the facts and circumstances of the case, the Ld. CIT(A) erred in facts as well as in law in deleting the addition of Rs. 1,62,65,822/- u/s 69A by the AO. AO had treated the cash deposits of Rs. 1,62,65,822/- as unexplained money as no evidence was placed on the record by the assessee to substantiate the said cash deposits.

2 The Ld.CIT(A) had accepted additional evidences without giving opportunity to the AO as prescribed under sub rule (3) to rule 46A of the Income Tax Rules, 1962.

3 The appellant craves the leave to add/modify/ alter any or all the grounds during the course of hearing/pendency of appeal.”

2.1 The assessee has also filed cross objections on the department's appeal raising the following issues:

That on the fact and circumstances of the case the order passed by the Ld. CIT (A) is correct in deleting the addition made by the A.O. u/s 69A of the IT Act 1961 to the tune of Rs.1,62,65,822/-, both from the point of facts and of law.

That the additional evidence has no nexus with the point as decided by the Ld. CIT (A) all together.

That the Respondent craves leave to submit to add/ modify/alter any of the grounds during the course of hearing.

3. None appeared on behalf of the assessee and therefore the appeal was heard with the assistance of the Ld. Sr. DR. It is pertinent to note that the tax effect by virtue of relief given by the first appellate authority is less than ₹60,00,000/- as mentioned in Col. No. 10 of Form No. 36. which is stated to be ₹50,26,139/- and which is below ₹60,00,000/-. As per the CBDT's Circular No. 9 of 2024 issued on 17th September, 2024, the CBDT has directed its subordinate



authorities not to file appeal against the order of the Id. CIT(Appeals) before the Tribunal if the tax effect by virtue of relief given by the Id. CIT(Appeals) is less than ₹60,00,000/-. Such order could only be challenged if it comes within the exceptions provided in the Instruction. Id. Sr. DR could not rebut this fact nor could he demonstrate how the appeal was covered under any of the exceptions; therefore, this appeal is not maintainable.

4. On due consideration of the above facts and circumstances, we dismiss this appeal of the Revenue on account of low tax effect. However, in case on re-verification of the facts at the end of the Id. Assessing Officer, it emerges that the tax effect is more than the limit for filing the appeal or this case falls under any of the exceptions provided in the instruction, then the Revenue will be at liberty to file a Miscellaneous Application for recall of this order and revival of the appeal. Such an application should be filed within the time limit provided in the Act.

5. In the result, the appeal filed by the revenue as well as the cross objections filed by the assessee are dismissed.

**Order pronounced on 25th March, 2025 under Rule 34(4) of the
Income Tax (Appellate Tribunal) Rules, 1963.**

Sd/-

[Manomohan Das]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 25.03.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Bidhan Roy, S/O Harimohan Roy, Umesh Market, Agartala Central Road, Tripura West – 799001.**
2. **Income Tax Officer, Ward -1, Agartala Room No. 107, 1st Floor, Aayakar Bhawan, Mantribari Road, Netaji Chowmuhani, Agartala.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. Jt./Addl. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata