

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN “SMC” BENCH, DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.43/DDN/2024
Assessment Year: 2020-21

M/s. Maya & Co., Talla Danya Dharanaula Almora, Uttarakhand	Vs.	DCIT, Central Circle, Haldwani.
PAN :AAHAM6723A		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. S.K. Chaterjee, CIT(DR)

Date of hearing	17.03.2025
Date of pronouncement	23.04.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee’s appeal for assessment year 2020-21, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the “CIT(A)/NFAC”], Delhi’s DIN and order no. ITBA/NFAC/S/250/2023-24/1059720469(1), dated 15.01.2024, involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’).

2. Case called twice. None appears at the assessee's behest. It is accordingly proceeded ex-parte.

3. Learned CIT(DR) vehemently argues during the course of hearing that both the learned lower authorities have rightly added unexplained money/cash of Rs.10.80 lakhs in the assessee's hands as it could not explain the source thereof during the course of hearing of assessment framed on 31st March, 2022 as upheld in the lower appellate discussion.

4. We next note with the able assistance coming from CIT(DR) side and from a perusal of the case file that the above stated cash was seized by the appellate authority on 06.04.2019 in routine checking of vehicles. Learned Assessing Officer very fairly records in the assessment order that the driver of the vehicle and his alleged accomplice, Sh. Chandan Sabharwal got recorded their statement that the said cash represented liquor sale receipts of the shop located at Premnagar, Dehradun, which was run by Smt. Sarita, who happened to be a member of assessee AOP M/s. Maya & Co. The Principal Director of Income Tax (PDIT) thereafter issued his warrant on 06.04.2019 requisitioning the said cash, which in turn, led to section 69 r.w.s. 115BBE addition made in the

assessee's hands. The CIT(A)/NFAC has upheld the said assessment findings.

5. It is in this factual backdrop that there arises the first and foremost clinching issue of the validity of the impugned section 143(3) assessment itself as the instant case involves the PCIT, Kanpur's requisition dated 06.04.2019, which amounts to initiation of search attracting either section 153A proceeding in case of the searched person or under section 153C, involving any third person.

6. Learned CIT(DR) vehemently argues in light of [2024] 168 taxmann.com 574 (Delhi-HC), PCIT -7 vs. Naveen Kumar Gupta and Amar Jewellers Ltd vs. ACIT (2022) 444 ITR 97, that it is nowhere mandatory to only initiate section 153C proceedings in such an instance which could also lead to setting into motion a reopening under section 148/147 of the Act.

7. We are of the considered view that the Revenue's arguments carry no merit once it is a case of a "requisition" and the learned Assessing Authority has framed its assessment under the regular provisions i.e. under section 143(3) of the Act than either taking recourse of section 148/147, as the case may be. We thus see no

reason to sustain the impugned assessment framed on 31st March, 2022, which is hereby quashed in very terms.

All other assessee's remaining grounds in the instant appeal stand rendered academic.

8. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 23rd April, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 23rd April, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi