

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

**ITA No.585/Ind/2024 (AY: 2012-13)**

Bal Mukund Patidar, E-6/7, Arera Colony, Bhopal <b>(PAN: AFWPP2759L)</b> (Appellant)	<b><u>बनाम/</u></b> Vs.	DCIT of ITO 2(3), Bhopal  (Revenue)
Assessee by	Shri S.K. Khandelwal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.04.2025	
Date of Pronouncement	22.04.2025	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

The assessee has filed the present appeal Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal as and by way of Second appeal under the Act. The assessee is aggrieved by the order bearing Number ITBA/APL/S/250/2024-25/10665439554(1) dated 06.05.2024 passed by Ld. CIT(A) passed u/s 250 of the Act which is hereinafter referred to as the "**Impugned order**". The relevant Assessment Year is 2012-13 and the corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

**FACTUAL MATRIX**

2.1 That the assessee filed his Income Tax Return for the Assessment Year 2012-13 on 07.07.2013 at income of Rs.2,37,400/-.

2.2 That as per AIR information available, the assessee had made cash deposits of Rs.10,07,747/- in Punjab and Sindh Bank during the Financial Year 2011-12 in various transactions. Due process was followed for approval from the competent authority for issuing notice u/s 148 of the Act.

2.3 That a notice u/s 148 was issued on 25.03.2019 which was duly served on the assessee through speed post. That during the proceedings various notices were issued from time to time but the assessee has not responded. The details of the notice(s) issued are under:-

<i>Nature of Notices</i>	<i>Date of Notice</i>	<i>Response</i>
<i>Notice U/s 148</i>	<i>27.03.2019</i>	<i>No compliance was made</i>
<i>Notice u/s 142(1)</i>	<i>02.08.2019</i>	<i>No compliance was made</i>
<i>Notice u/s 142(1)</i>	<i>05.09.2019</i>	<i>No compliance was made</i>
<i>Notice u/s 142(1) (Final opportunity)</i>	<i>04.12.2019</i>	<i>No compliance was made</i>

2.4 That looking to the non-compliance by the assessee, a final opportunity was given to the assessee on 04.12.2019. In

response to the said notice, also, no compliance was made by the assessee. The assessee has not given any explanation with regard to cash deposit of Rs. 10,07,747/-

2.5 That since the assessee has not complied with any of the statutory notices issued and failed to present his case even after giving sufficient opportunities, it is considered that assessee has nothing to say with regard to cash deposits made by the assessee of Rs. 10,07,747/-. In view of this fact A.O had no other option left but to pass the assessment order exparte u/s 144 of the Income Tax Act, 1961 on the basis of material available on record. The assessment in the case was finalized, accordingly, as under.

2.6 Cash deposits of Rs. 10,07,747/-.

In the year under consideration, the assessee had made cash deposits of Rs. 10,07,747/- in his saving bank account maintained with Punjab & Sindh Bank on various dates. As the assessee has not complied with any of the statutory notices issued to him, the source of cash deposit made by the assessee in his account remained unexplained in the absence of any details/explanation on the part of the assessee even after giving sufficient opportunities, the cash deposits of Rs 10,07,747/- is

added to the total income of the assessee u/s 69A of the Act as this cash deposit is considered as unexplained money of the assessee which he deposited in the Bank on various dates Penalty proceedings u/s 271(1)(c) of the Act are initiated against the assessee for concealment of income.

2.7 In view of the above discussion, the total income of the assessee for AY 2012-13 computed as under:-

Income shown in the return	=	Rs 2,37,400/-
Add: 1. Unexplained cash deposits		
added as above u/s 69A of the Act	=	<u>Rs 10,07,747-</u>
Total income assessed	=	<u>Rs. 12,45,147/-</u>

2.8 That the aforesaid assessment order of Ld. A.O is dated 09.12.2018 **u/s 144 r.w.s. 147** of the Act which is hereinafter referred to as the "**Impugned Assessment Order**".

2.9 That the assessee being aggrieved by the aforesaid assessment order prefers first appeal u/s 246 of the Act before CIT(A) who by the "**Impugned Order**" has dismissed the appeal of the assessee.

2.10 That the assessee being aggrieved by the “**Impugned Order**” has preferred this instant second appeal against the impugned order has raised following grounds of appeal in Form 36 which are as under:-

*1. The CIT (Appeal) issued notices on 22nd April 2024 which was duly replied on 25th May 2024 requesting to grant time for a month.*

*2. The learned CIT (Appeal) ex parte decided the case rejecting our appeal on 06th June 2024 without considering our request for granting the time.*

*3. The total addition of Rs 1007747/- is confirmed without considering the paper/ documents available on record. The addition is arbitrary & against national justice & law. Therefore we request to set aside the appeal order.*

*4. The assessee reserves the right to add, amend or alter any grounds of appeal at any time of hearing.”*

3. **Recording of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 16.04.2025 when Ld. AR for and on behalf of the assessee submitted 2 pages written arguments/submission which were taken on record. The Ld. AR then submitted before us that the “**impugned order**” is bad in law, illegal and not proper. It is also in violation of the principles of natural justice as a request for adjournment was made before Ld. CIT(A) on a genuine ground “**since documents related to appeal proceedings are quite old**”

therefore it is taking time to collect all papers. Under the circumstances it is requested to grant adjournment for a month and oblige". The above was in response to notice dated 22.4.2024 of Ld. CIT(A) u/s 250 of the Act and same was filed on 25.05.2024, however no adjournment was granted and Ld. CIT(A) proceeded with the matter and passed an ex parte order on 06.06.2024 which is in complete violation of the principles of natural justice.

3.2 Per contra Ld. DR for and on behalf of the Revenue contended that "**impugned order**" is not meritorious and finally requested the tribunal to pass such order according to law.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the "**Impugned Order**" basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We are of the considered view that the "impugned order" is not on merits of the case as enshrined in **Section 250(6) of the Act**. We notice that assessee had sought adjournment on genuine ground and Ld. CIT(A) ought to have given the time of a

month which request was genuine. Under the circumstances the Ld. CIT(A) ought not to have proceeded ex parte and ought not to have passed impugned order on 06.06.2024 rejecting first appeal of the assessee without even discussing the merits and demerits of the case. In these circumstances we set aside the impugned order and remand the case back to the file of CIT(A) with a direction to pass a fresh order on merit on *denovo basis* after giving an opportunity to assessee to present his case on meritorious grounds.

5. **Order**

5.1 Impugned order is set aside as and by way of remand on *denovo basis*.

5.2 Appeal of the assessee is allowed for statistical purpose.

**Order pronounced in open court on 22.04.2025.**

Sd/-

Sd/-

**(SMT. ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

Indore

दिनांक/ Dated : 22/04/2025

Dev/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore