

IN THE INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCH "B", JAIPUR
BEFORE SHRI GAGAN GOYAL, ACCOUNTANT MEMBER AND
SHRI NARINDER KUMAR, JUDICIAL MEMBER
ITA No. 127(A.Y. 2018-19)/JPR/2025

Dy. Commissioner of Income Tax,
Circle (International Taxation),
Jaipur.

..... Appellant

Vs.

Kavita Chhugani,
B-43, Shastri Nagar,
Jodhpur.
PAN No. AAIPC9720F

.....Respondent

Appellant by : Mr. Ashish Khandelwal, C.A., Ld. AR
Respondent by : Mrs. Alka Gautam, CIT, Ld. DR
Date of hearing : 28/04/2025
Date of pronouncement : 28/04/2025

ORDER

PER GAGAN GOYAL, A.M:

This appeal by revenue is directed against the order of CIT (A), Delhi-42 dated 02.12.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act'). The revenue has raised the following grounds of appeal: -

1.1 *On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) has erred in deleting the addition of Rs. 49,50,000/- made u/s. 69A of the 1.T. Act 1961 by allowing the appeal of the assessee further failed to appreciate the findings of the AO that the assessee did*

not submit the bank account statement of bank account no. 31879028039 maintained with State Bank of India in the name of Sh. Ishu Chhugani & Mrs. Simran Ishu Chhugani (Son and Daughter-in-law) and copy of gift deed from his son and daughter-in-law.

1.2 On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) has erred in deleting the addition of Rs 81,72,000/- made on account of unexplained investment for purchasing the immovable properties u/s. 69 of the 1.T. Act 1961 by allowing the appeal of the assessee. The Ld. CIT (A) has failed to appreciate the findings of the AO that the assessee did not submit the supporting documents to explain the source of the said transactions during the assessment proceedings.

1.3 On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) has erred in deleting the addition of Rs 1,06,575/- made u/s. 69A of the 1.T. Act 1961 by allowing the appeal of the assessee. The Ld. CIT (A) has failed to appreciate the findings of the AO that the assessee did not submit the supporting documents to explain the source of the said transactions during the assessment proceedings.

1.4 On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) has erred in admitting the additional evidences filed by the assessee in contravention to rule 46A of the Income Tax Rules which mandates that no additional evidence shall be admitted by the CIT (Appeals) without providing opportunity to the AO to examine the evidence or document or to cross-examine the witness produced by the appellant.

1.5 Whether on the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) is justified in assuming the powers vested to the Assessing officer to examine the evidence or document or to cross-examine the witness produced by the appellant by admitting additional evidences without providing opportunity to the AO?

2. The appellant craves leave to add, amend or withdraw any of the ground of appeal during the course of appellant proceeding.

2. The brief facts of the case are that the assessee individual being Non-Resident Indian (NRI) is non filer of return. Information in this received from AIR Information/ TAS/ 26AS Details. On this information a notice u/s. 148 of the Act

was issued vide dated: 30.03.2022. In response to this notice the assessee filed her ITR u/s. 148 of the Act vide dated: 18.08.2022 declaring total income at Rs. 1, 24,180/-. Then Statutory Notices issued u/s. 142(1) and 143(2) were issued. A draft assessment order was passed in the case of the assessee u/s. 144C (3) of the Act being an eligible assessee for this section. Ultimately, the final assessment order was passed u/s. 147 r.w.s. 144C(3) of the Act after making additions of Rs. 1,32,28,580/- totaling Rs. 1,33,52,760/-. The assessee being aggrieved with the same preferred an appeal before the Ld. CIT (A), who in turn allowed the appeal of the assessee. Now the department being aggrieved preferred the present appeal before us.

3. We have gone through the order of the AO, order of the Ld. CIT (A) and submissions of both sides alongwith grounds taken by the Revenue. It is observed that the assessee under consideration is an NRI and having income from other sources and rental income. In his assessment order the AO made two major additions of Rs. 81.72 Lacs and 49.50 Lacs alongwith a small addition of Rs. 1, 06,575/- u/s. 69 and 69A of the Act respectively. The assessee purchased two properties of Rs. 39 Lacs each and paid registration charges of Rs. 1.86 Lacs each, totaling Rs. 71.2 Lacs. In the year under consideration Rs. 2,62,354/- and 3 Lacs only (for each flat, in addition to Rs. 1.86 Lacs each for registration) was paid remaining amount of Rs. 36,37,646/- and 36 Lacs each was paid in the earlier years.

4. We have considered the factual findings of the Ld. CIT (A) vis-à-vis the bank statements of the assessee for verification purposes. It is observed that during the year under consideration the assessee paid only Rs. 5, 62,354/- (Rs. 262354 + Rs.

3 Lacs) towards final payment of both the properties mentioned above and Rs. 3.72 Lacs (Rs. 1.86 Lacs each) towards payment of registration charges. The assessee received money from her son and daughter-in-law (Mr. Ishu Dileep Chhugani and Mrs. Simran Ishu Chhugani) in her bank account, out of which payments of Rs. 562354/- and Rs. 3.72 Lacs were made. In support of this the assessee submitted Copies of Gift Deeds from both the relatives. The assessee received this money from NRE/NRO accounts of her son and daughter-in-law maintained in State Bank of India (SBI) and HDFC Bank respectively vide account nos. 31879028039 and 10851000011492 respectively. Copies of registration deed of properties are placed on record having clear reference of the assessee's bank details as claimed by her and copies of relevant bank statement are also there for our perusal. In view of the above, we confirm the order of the Ld. CIT (A) and find no anomaly in the order passed against the AO. **Relevant ground on this issue raised by the department is dismissed.**

5. Next issue pertains to receiving Rs. 49.5 Lacs during the year by the assessee in her bank account. It is observed that vide para 10.1 of the Ld. CIT(A) it is tabulated in terms of date of receiving, amount and transferor's bank account details. To substantiate the Ld. CIT (A) relied upon the copies of bank statement submitted by the assessee before the AO and him. We have also verified the entries w.r.t. bank statement of the assessee and her son and daughter-in-law. Here it is worthwhile to mention that the assessee is receiving the money from his relations, which are in exempted category and can make gift without any tax implication under the head "Income from other sources". As far as the ingredients (Identity, Creditworthiness and Genuineness) of section 68 of the Act are concerned, those are fully met by the assessee and we do not see any fault in the

findings of the Ld. CIT (A). In view of this **Relevant ground on this issue raised by the department is dismissed.**

6. On third issue relating to addition of Rs. 1, 06,575/-, we have gone through the findings of the Ld. CIT (A), wherein it was held that the assessee earned rental income of Rs. 3, 20,250/- and the same has been offered for tax but still the AO doubly taxed the amount of Rs. 1, 06,575/- and the same is not tenable legally and factually. **The findings of the Ld. CIT (A) on this issue are also sustained and relevant ground on this issue raised by the department is dismissed.**

7. Ground nos. 1.4 and 1.5 relating to admission of additional evidence under rule 46A of the Rules without giving an opportunity to the AO is found to be an academic one, i.e. not a substantial ground, which confirms that the interest of the revenue is hurt with this action of the Ld. CIT (A) and prejudicial to the interest of revenue. Rules follow the substantive law and simply a part of procedure for better carriage of justice. Law certainly given ample powers to the first appellate authority and the revenue is failed to demonstrate that how this action of the Ld. CIT (A) affected their rights in the matter under consideration. **In view of this the relevant grounds on this issue also dismissed.**

8. **In the result, the appeal of the revenue is dismissed.**

The Order is pronounced in the open court on the 28th day of April 2025.

Sd/-

(NARINDER KUMAR)
JUDICIAL MEMBER

Jaipur, दिनांक/Dated: 28/04/2025

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., Sr.DR., ITAT,
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Jaipur

	Details	Date	Initials	Designation
1	Draft dictated on PC on	28.04.2025		Sr.PS/PS
2	Draft Placed before author	28.04.2025		Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date of Dispatch of order			