

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH: DEHRADUN**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.2214/DEL/2018, A.Y. 2009-10

Reena Verma C/o Shri Pawana Singh Khedi Kala, Mubaraqqpur Laksar, Haridwar, Uttaranchal PAN: AGVPV0526B (Appellant)	Vs.	Income Tax officer, Ward 1(3)(5), Roorkee (Respondent)
Appellant by	None	
Respondent by	Sh. A. S. Rana, Sr. DR	
Date of Hearing	10/02/2025	
Date of Pronouncement	09/05/2025	

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal of the assessee for the Assessment Year (hereinafter, the 'AY') 2009-10 is directed against the order dated 24.01.2018 passed by the Commissioner of Income Tax (Appeals), Dehradun [hereinafter, the 'CIT(A)'].

2. The assessee has raised following grounds in this appeal:

- “1. That the learned Commissioner of Income Tax (Appeals), Dehradun has erred both in law and on facts in upholding the determination of Income of the appellant at Rs.17,57,185/- as against declared income of Rs.1,35,000/- in an order of assessment dated 28.12.2016 made under section 147/143(3) of the Act.

2. *That the initiation of proceedings under section 147 of the Act and completion of assessment under section 147/143(3) of the Act without appreciating that, statutory pre-conditions for neither the initiation of proceedings and, nor the completion of assessment under the Act had been fulfilled and, therefore, the same were without jurisdiction and hence deserved to be quashed as such.*
- 2.2 *That the both has failed to appreciate that there was no specific relevant, reliable and tangible material on record to form a "reason to believe that income of the appellant had escaped assessment and in view thereof the proceedings initiated are illegal, untenable and therefore unsustainable.*
- 2.3 *That initiation of proceedings was mechanical and without any application of mind much less independent application of mind, therefore the notice issued u/s 148 of the Act was an invalid notice and assumption u/s 147 of the Act was without jurisdiction.*
3. *That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in sustaining an addition of Rs.11,00,000/- representing alleged unexplained money u/s 69A of the Act*
- 3.1 *That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in sustaining an addition of Rs.11,00,000/- representing sums received from Shri Raghuvir Singh as advance received against the share in agriculture land under agreement to sale and erroneously held as unexplained money under section 69A of the Act.*
- 3.2 *That both the authority below while making and sustaining respectively the above addition has arbitrarily rejected the explanation tendered by the assessee and made the addition arbitrarily and mechanically on the basis of inadmissible evidences and therefore not sustainable.*
- 3.3 *That both the authority below while making and sustaining respectively the above addition ought to have examined the Shri Raghuvir Singh and witness Shri Nepal Singh and Shri Manoj Kumar Singh before rejecting the explanation tendered by the assesses and*

as such addition made by rely upon the statement of Shri Raghuvir Singh is wholly unjustified.

- 3.4 *That learned Commissioner of Income Tax (Appeals) has failed to appreciate that, mere recording of statement of Shri Raghuvir Singh and, drawing adverse inference on basis thereof, neither in law and, nor in fact can be held to be a valid basis to suggest that opportunity had been granted to the assessee.*
- 3.5 *That authority below has gravely erred, both on fact and in law in relying on the aforesaid statement, without affording an opportunity of cross examination, and as such has violated the principal of natural justice.*
4. *That the learned Commissioner of Income Tax (Appeals) Dehradun has erred both in law and on facts in upholding an addition of Rs. 5,22,185/- representing sale consideration of agriculture produced by the assessee and, held to be unexplained money u/s 69A of the Act.*
- 4.1 *That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that sale of paddy amounting to Rs.2,54,775/- and sale of popular tree to Rs.2,64,410/- aggregating to Rs.5,22,185/- and out of sale of personal effect as member of joint Hindu family, and evidence of sufficient agriculture holding and as such, addition so sustained is invalid and untenable.*
- 4.1 *That the learned Commissioner of Income Tax (Appeals) has failed to appreciate while sustaining that such income is unexplained money under section 69A of the Act and was taxable under the head "income from other sources" without appreciating that this sum represented agriculture income and could not be taxed under section 69h of the Act.*
- 4.2 *That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that assessee has led complete documentary evidence in support of the agriculture land so as to discharge the onus and therefore, the addition sustained on subjective and arbitrary assumptions that no agriculture land has shown in the balance sheet has not been established is contrary to law and hence untenable.*

- 4.3 *That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that since the assessee does not maintain books of accounts, addition made and sustained by invoking section 69A of the Act is wholly illegal and untenable.*
5. *That the authorities below have framed the impugned order without granting sufficient proper opportunity to the appellant and therefore the same are contrary to principle of natural justice and hence vitiated.*
6. *That the learned Commissioner of Income Tax (Appeals) has further erred in upholding the levy of interest, which are not leviable on the facts of the instant case.*

It is therefore, prayed that, it be held that assessment made by the learned Income Tax Officer and sustained by the learned Commissioner of Income Tax (Appeals) be quashed and, further addition so upheld by the learned Commissioner of Income Tax (Appeals) be deleted and appeal of the appellant be allowed.”

- 2.1 In nutshell, the assessee has raised following issues before us:
- i. Reopening of the assessment,
 - ii. Taxability of Rs.11,00,000/- under section 69A of the Act,
 - iii. Taxability of Rs.5,22,185/- under section 69A of the Act
 - iv. Chargeability of interest under the Act.

3. The brief facts giving rise to this appeal are that the assessee, engaged in the business of liquor trading, filed her original Income Tax Return (hereinafter, the 'ITR') declaring income of Rs.1,35,000/-. Later on, the case was reopened the case on reasoning that the capital introduced in business; prima-facie was not explained. Consequentially, the assessment was completed at income of Rs.17,57,185/-. During the course of the reopened assessment proceedings, the Assessing officer

(hereinafter, the 'AO') enquired about the advance of Rs.11,00,000/- received from Shri Raghuvver Singh for claimed sale of immovable property. Shri Raghuvver Singh denied having not only the sale agreement of immovable property but also the payment of Rs.11,00,000/- in cash. The details in this regard are mentioned in para 6 and 6.1 of the assessment order. The AO therefore, taxed it as unexplained. Further, the AO also taxed the sum of Rs.5,22,185/- claimed to have been sourced from her agricultural income. However, the assessee had not disclosed any agricultural income in her ITR. Hence, the AO treated the same as unexplained and taxed it. Aggrieved, the assessee filed appeal before the CIT(A), who dismissed the appeal as under:

“13. Proceeding to the addition made by the AO of Rs. 11 lacs on account of advance stated to have been received from one Sh. Raghuvver Singh, it is seen that the AO has relied on documents submitted by the assessee herself. At para 6 of the assessment order, the AO has pointed out certain inaccuracies and other features of the documents produced by the assessee which create a doubt on their genuineness in the submissions filed by the appellant before the undersigned, this point raised by the AO has not been satisfactorily met. The appellant has mentioned that the genuineness of the stamp papers Issued for the agreement was verified by the A/o but it does not address the deficiencies that the AO has pointed out in these documents Therefore, the issue raised by the AD remains unrebutted by the assessee.

14. The AO has also mentioned that he had recorded the statement from Shri Raghuvver Singh, the person who is stated to have been made this advance of Rs. 11 lacs. Shri Raghuvver Singh has denied

having accepted any agreement and advancing any money to the assessee. This statement by Sh. Raghuveer Singh places the ball in the court of the assessee and it is now for the assessee to rebut this. However, in the submission made by the appellant before the undersigned, it is merely stated that Sh. Raghuveer Singh is an old man of 90 years and has forgotten everything. It can hardly be a defense when Sh. Raghuveer Singh has made a very clear and tangible statement before the AO denying the statement. Under these circumstances, the addition made by the AO is found to be correct and based on material available on record and is upheld. This ground of appeal therefore fails.

15. The next point is the addition of Rs 5,22,185/- u/s 69A. This amount was claimed to be capital introduced against sale of agricultural produce. The AO has held that the assessee has failed to show the genuineness of this agricultural income. In the submission made by the appellant before the undersigned, the appellant has not adduced any evidence except the revenue record to show that the assessee owns agricultural land. Owing agricultural land is one thing and earning income from it is another. I found that the assessee has been unable to discharge the onus to show that the agricultural land actually gave rise to the income of Rs. 5,22,185/-. Therefore, the addition made by the AO is sustained.”

4. Before us, none appeared on behalf of the assessee; therefore, we heard Ld. Senior Departmental Representative (hereinafter, the ‘Sr. DR’). He requested for dismissal of the appeal and supported orders of lower authority.

5. First issue is in respect of reopening of the assessment. The Ld. CIT(A) has decided this issue as under:

“12. The first ground taken by the appellant is that the proceedings u/s 148 taken up by the AO are without jurisdiction. This claim of the assessee stems from the fact that in the reason recorded by the AO.

It has been mentioned that the assessee never filed return of Income for the AY 2009-10 However, the assessee claims that it had indeed filed the return for the said assessment year but no action was taken on the return, it was not even processed u/s 143(1). Therefore, the assessee claims that the basic premise of the AO fails in acquiring jurisdiction u/s 148. I have considered this matter and I hold that even if the claim of the assessee that it had filed return for A.Y. 2009-10 is correct, the fact is that the issues that the AC has examined in this assessment were never critically looked at in the return. Therefore, it cannot be said that issuing of notice u/s 147 was mere change of opinion. More so, when the return originally claimed to have been filed by the assessee was not even processed u/s 143(3). Therefore, this ground of the assessee fails and the proceedings initiated by the AO u/s 148 are held to be valid.”

6. There is no evidence to demonstrate that the original ITR was processed. The reasoning recorded clearly demonstrate that the assessee had not divulged all the material facts to the AO. For eg. receipt of the advance of Rs.11,00,000/-received from Shri Raghuvveer Singh and the agricultural income in his ITR. There may be some factual mistake in recording the reason for reopening the case but it does not demonstrate non-application of mind as claimed by the assessee. Thus, we are of the considered view that the reason recorded prior to the issuance of notice under section 148 of the Act is valid satisfaction. In view of the above, we do not see any infirmity in the finding of the Ld. CIT(A) upholding the reopening of the case. Reopening of the case thus is held valid. Accordingly, this issue fails.

7. The next issue is in respect of the taxability of Rs.11,00,000/-. The assessee has failed to bring any material on the record to contradict the finding of the Ld. CIT(A) with respect to the advance of Rs.11,00,000/- received from Shri Raghuvver Singh. Thus, we do not find any infirmity in the finding of the Ld. CIT(A) in this regard. We therefore, decline to interfere with the finding of the Ld. CIT(A). Thus, we uphold the addition of Rs.11,00,000/-. This ground fails accordingly.

8. The next issue is in respect of the taxability of Rs.5,22,185/-. The assessee has failed to bring any material on the record to contradict the finding of the Ld. CIT(A) with respect to the advance of Rs.5,22,185/-. Thus, we do not find any infirmity in the finding of the Ld. CIT(A) in this regard. We therefore, decline to interfere with the finding of the Ld. CIT(A). Thus, we uphold the addition of Rs.5,22,185/-. This ground fails accordingly.

9. The ground relating to chargeability of interest under the Act, being consequential, is dismissed.

10. In the result, the appeal of the assessee is stand dismissed.

Order pronounced in open Court on 09 May, 2025

Sd/-

(VIKAS AWASTHY)
JUDICIAL MEMBER

Dated: 09/05/2025
Binita, Sr. PS

Sd/-

(AVDRESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT/CIT
4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI