

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

**ITA No.565/Ind/2024**  
**Assessment Year:2015-16**

Chandrakant Bajaj, 122, Silicon City Rau	<b><u>बनाम/</u></b> Vs.	CIT / NFAC Delhi
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: ABFPB5121K</b>		
Assessee by	Shri H.N. Joshi, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	06.05.2025	
Date of Pronouncement	08.05.2025	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first appeal dated 04.06.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 12.05.2023 passed by learned Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s. 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal.

2. The background facts as culled out from assessment-order are such that the assessee-individual filed original return of AY 2015-16 on 14.03.2017 declaring a total income of Rs. 7,18,790/-. The return so filed was found to be invalid. Thereafter, on the basis of certain observations made by AO while dealing assessment of assessee of subsequent AY 2016-17, the case of AY 2015-16 under consideration was subjected to assessment u/s 147 through a notice u/s 148. In response to such notice, the assessee filed return declaring a total income of Rs. 3,17,170/- on 24.01.2023. Thereafter, the AO issued notices u/s 143(2)/142(1) and scrutinized case of assessee. Finally, the AO passed following order assessing total income at Rs. 1,11,13,790/-:

**"4.6 Conclusion drawn:-** Considering the above facts, as the various notice was issued to the assessee to file his reply on investment made of capital of Rs. 1,03,95,000/- in Sai Drishti Developers as per Audit report for the A.Y. 2016-17. The assessee vide his reply dated 24-01-2023 has submitted that he is a proprietor of M/s Sunil Timber and partner in the firm M/s Royal Construction & Developers (PAN: AAPFR4798D) and he engaged in trading of timber and construction of Residential house. The assessee has also mentioned that he is an Income Tax payee from last 20 years and filed his IT return vide Ack No. 932927920240123 dated 24-01-2023. The assessee has maintained Bank Account in following Banks:

Sl. No.	Name of Bank	Bank Address	Account no.	Type of A/c	Whether held (single/joint)
1	Bank of India	Guru Nanak Timber Market	883210100005999	Saving a/c	Single
2	Bank of India	Guru Nanak Timber Market	883230110000023	Current	Single

The assessee has also mentioned that he is a partner in the firm M/s Sai Drishti Developers and invested amounting to Rs. 1,03,95,000/- in the firm as Capital. Again on 30-03-2023, the assessee has submitted the copy of ledger account of Sai Drishti Developers. The source of the investment remained unverified therefore, it is found that the assessee has nothing brought on record to substantiate their claim. Therefore, a total addition of Rs. 1,03,95,000/- on investment made of capital of Rs. 1,03,95,000/- in Sai Drishti Developers as per Audit report for the A.Y. 2016-17 u/s 69 of Income Tax Act 1961 for which no reply or submission has been furnished by the assessee despite several opportunities. Further, an amount of Rs. 4,01,620/- is added to the taxable income on account of difference in income declared suo motto as per original ITR and ITR filed in response to notice u/s 148. Therefore, total addition in this case comes to Rs. 1,07,96,620/-. Penalty proceedings u/s 271(1)(c) of the IT Act have been initiated separately for concealment of particulars of income.

5. Final computation of taxable income:-

Sr. No.	Description	Amount (in INR)
1	Income as per Return of income filed	3,17,170
2	Income as computed u/s 143(1)(a)	3,17,170
3	Variation in respect of issue discussed in para 4.6 above	1,07,96,620
4	Total income/loss determined as per the above proposal	1,11,13,790

2.1 Thus, the AO made an overall addition of Rs. 1,07,96,620/- which has two components, viz. (i) unexplained capital investment of Rs. 1,03,95,000/- made by assessee in partnership firm M/s Sai Drishti Developers and (ii) difference of Rs. 4,01,620/- in the total income declared in original return and return filed in response to notice u/s 148 [i.e. Rs. 7,18,790 (-) Rs. 3,17,170].

2.2 Aggrieved, assessee carried matter in first-appeal but did not get any relief. Now, the assessee has come in next appeal before us challenging the orders of lower-authorities.

3. The grounds raised by assessee are as under:

*"1. That the learned 1<sup>st</sup> Appellate Authority has erred both in Law and in facts in Passing the 1<sup>st</sup> Appeal Order without considering the facts and documents.*

*2. That the 1<sup>st</sup> Appellate Authority has also erred in confirming the Addition of Rs. 401620/- of mismatch in original and Revised Return due to the technical glitch on IT Portal.*

*3. That the learned 1<sup>st</sup> Appellate Authority has further erred in confirming the addition of Rs. 10796620/- invested in M/s Sai Drishti Developers as Capital without Considered the Facts and Documents.*

*4. That thus the 1<sup>st</sup> Appeal Order so passed is quite illegal and unjust unwarranted contrary to facts and deserve to be set aside.*

*5. That the appellant further craves have to add alter and or amend any of the forgoing grounds as and when necessary."*

**Ground No. 1, 4 and 5:**

4. These grounds are general in nature and no specific submission is made during hearing qua these grounds. Accordingly, these grounds do not require a separate adjudication from us.

**Ground No. 2:**

5. This ground challenges the addition of Rs. 4,01,620/- made by AO on account of mis-match/difference in the total income declared by assessee in original return filed and the return filed in response to notice issued u/s 148.

6. Undisputably, the assessee declared total income of Rs. 7,18,790/- in original return but declared total income of Rs. 3,17,170/- in the return filed in response to notice u/s 148. Therefore, the AO has made addition of Rs. 4,01,620/- on account of lesser income declared in the return filed u/s 148.

7. In the ground raised, the assessee has mentioned that the mis-match in original return and revised return had occurred due to a technical glitch. Before CIT(A), the assessee made following submission as noted by CIT(A) in Para 5.4 of impugned order:

*"...He has simply stated that due to technical glitch a lesser income was shown in the return of income filed subsequently."*

Before us, the assessee has made following submission in a sheet titled "Facts of Case":

*"In response to the notice, the Appellant has filed the Return, and the Income shown of Rs. 317170/- with a technical glitch whereas the Appellant paid the tax on income of Rs. 718790/-."*

During hearing before us also, Ld. AR accepted the very same submission. Thus, from the submission of assessee/Ld. AR, it is clear that the lesser income of Rs. 3,17,170/- got reported in the return filed in response to notice u/s 148 due to technical glitch although the assessee had paid tax on correct income of Rs. 7,18,790/-. Thus, the assessee is himself accepting the correct taxable income of Rs. 7,18,790/- which is same as was reported by assessee in original return. When it is so, the addition of Rs. 4,01,620/- [i.e. Rs. 7,18,790 (-) Rs. 3,17,170] made by AO (forming part of overall

addition of Rs. 1,07,96,620/-) is correct and the assessee cannot have any grievance against the action of AO. Hence, the Ground No. 2 raised by assessee is found meritless and rejected.

**Ground No. 3:**

8. This ground challenges the addition of Rs. 1,03,95,000/- (the assessee has wrongly mentioned the overall addition of Rs. 1,07,96,620/- in ground) made by AO on account of unexplained capital investment in M/s Sai Dristhi Developers.

9. Ld. AR filed following Written-Submission explaining the sources available to assessee for making impugned investment:

**Before The Member of Income Tax Appellate Tribunal Indore Bench**  
**Shri Chandrakant Bajaj**

**V/s**  
**Assessment Unit Income Tax Department (Faceless)**

**Date of Hearing: 06<sup>th</sup> May 2025**

**PAN No: ABFPB5121K**

**Re: In Appeal No. ITA 565|IND|2024**

**Subject: In respect of Part Heard in 2nd Appeal for the Assessment year**  
**2015-16.**

With reference to the above subject, the appellant is producing the following documents for the Part Heard in 2nd Income Tax Appeal, namely:-

(I) **In Respect of Investment:-** That the Appellant has invested amounting to Rs. 10395000/- in the concern M/s Sai Drishti Developers, Indore. We are giving the details as under:-

- 1) The Appellant has received the amount of Rs 5393660/- from M/s Sunil Timber, which is the proprietor concern of the Appellant. The purpose of taking this amount is a sum paid for purchase of land and its Stamp and Legal Charges.

S. No.	Date	Amount	Remark
1	27-May-14	256410	Paid for Stamp Charges for Purchase of Land from Smt Kamla Bai
2	07-Aug-14	263900	Paid for Stamp Charges for Purchase of Land from Smt Aarti Patel
3	15-Sep-24	199500	Paid for Stamp Charges for Purchase of Land from Shri Badri, Kailash, Nathu and Mahesh
4	16-Oct-14	200000	Rec from A/c No. 8832201100000583
5	03-Nov-14	650000	
6	20-Nov-14	647420	Paid for Land from Shri Anshul Khemlani
7	20-Nov-14	84850	Paid for Stamp and Legal Charges
8	20-Nov-14	1628640	Paid for Stamp and Legal Charges for Land Purchase from Shri Anshul Khemlani and Smt Neeta Regi
9	20-Nov-14	212940	

10	21-Nov-14	600000	Rec from A/c No. 8832201100000583
11	21-Nov-14	300000	
12	01-Dec-14	350000	
<b>Total</b>		<b>5393660</b>	

The said amount is also reflected in A/c of M/s Sunil Timber Annx 9 to 11 and Saving Account in Annx 16.

- 2) That the Appellant has withdrawal the amount from Saving Account No. 8832201100000583 which details are given below

**Amount Received From Saving A/c No. 8832201100000583**

S. No.	Date	Amount	Remark
1	16-Oct-14	200000	For Land Purchase
2	26-Dec-14	50000	For Land Purchase
<b>Total</b>		<b>250000</b>	

The said amount is also reflected in Saving Account No. 8832201100000583 of Bank of India Annx 16

**Amount Received As Cash**

S. No.	Particular	Amount	Remark
1	Cash	1000	For Land Purchase
<b>Total</b>		<b>1000</b>	

- 3) The Appellant has received the amount of Rs. 4750340/- from his younger brother Shri Sunil Bajaj Prop of M/s H N Enterprises. The purpose of taking this amount is a sum paid as Stamp and Legal Charges for land purchased.

S. No.	Date	Amount	Stamp and Legal Charges For Land Purchase from
1	27-May-14	2304050	Smt Kamla Devi
2	23-Jul-14	1373150	Shri Badri Kailash Nathu and Shri Mahesh Shankar
3	23-Jul-14	151690	
4	23-Jul-14	2000	
5	07-Aug-14	827330	Shri Babu Lal Choudhary
6	07-Aug-14	91550	
7	07-Aug-14	570	
<b>Total</b>		<b>4750340</b>	

The said amount is also reflected in A/c of M/s Sunil Timber Annx 9 to 11 and Affidavit of Shri Sunil Bajaj in Annx 21 to 22

That the Appellant received total investment amounting to Rs. 10395000/- which details are given below

**Total Investment Received**

S. No.	Investment From	Amount
1	Sunil Timber	5393660
2	H N Enterprises	4750340
3	Saving A/c	250000
4	Cash	1000
<b>Total</b>		<b>10395000</b>

(II) **In Respect of Revised Grounds of 2<sup>nd</sup> Income Tax Appeal:-** That at the time of filing the Appeal, a clerical mistake occurred in addition of investments in the M/s Sai Drishti Developers, so we are rectifying the grounds.

(III) **In Respect of Evidence Produced before the Both Authority: -** that the Appellant has produced the evidence before the Assessing Authority as well as before the Appellate Authority; therefore, we declared that the following evidence were produced before both Authorities. We are giving the details as under

**Before the Assessing Authority**

- A) Income Tax Return with computation of Income of Appellant and M/s Sai Drishti Developers
- B) Account Statement of M/s Sunil Timber
- C) Account Statement of M/s Sai Drishti Developers.
- D) Bank Statement of M/s Sunil Timber
- E) Saving A/c Statement of Shri Chandrakant Bajaj

**Before the Appellate Authority**

- A) Income Tax Return with computation of Income of Appellant and M/s Sai Drishti Developers
- B) Account Statement of M/s Sunil Timber
- C) Bank Statement of M/s Sunil Timber
- D) Saving A/c Statement of Shri Chandrakant Bajaj

**IV) In Respect of Additional Evidence.**- That we are filing the Application for produced the Additional Evidence under rule 46(A) of Income Tax, we are giving the details of Additional Evidence as under;

- a) Account Statement of M/s Sai Drishti Developers as Annx 5 to 6 before you. The said evidence was produced before Assessing Authority at the time of Assessment but not produced at the time of 1<sup>st</sup> Income Tax Appeal.
- b) Copy of Capital Account and Statement of Affairs, which is produced as Annx 07 to 08 before you.
- c) Copy of Income Tax Return of Shri Sunil Bajaj Prop of M/s H N Enterprises as Annx 17 to 20 before you.
- d) Copy of Affidavit of Shri Sunil Bajaj as Annx 21 to 22 before you.

Please therefore requested to you may be accept above.

Thanking You

Yours Faithfully



10. Ld. AR also moved assessee's Application under Rule 29 of Income-tax (Appellate Tribunal) Rules, 1963, the same is scanned and re-produced below:

**Before The Member of Income Tax Appellate Tribunal Indore Bench**  
**Shri Chandrakant Bajaj**

**V/s**  
**Assessment Unit Income Tax Department (Faceless)**

**Date of Hearing: 06<sup>th</sup> May 2025**

**PAN No: ABFPB5121K**

**Re: In Appeal No. ITA 565|IND|2024**

**Subject: In respect of Application filed under Rule 40(A) of Income Tax for Additional Evidence.**

With reference to the above that the Appellant has filed the 2<sup>nd</sup> Appeal before you at the time of filling the Reply the Appellant has produced the Additional Evidence which we are giving the details as under;

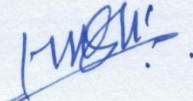
- A) Account Statement of M/s Sai Drishti Developers as Annx 5 to 6 before you. The said evidence was produced before Assessing Authority at the time of Assessment but not produced at the time of 1<sup>st</sup> Income Tax Appeal.
- B) Copy of Capital Account and Statement of Affairs, which is produced as Annx 07 to 08 before you.
- C) Copy of Income Tax Return of Shri Sunil Bajaj Prop of M/s H N Enterprises as Annx 17 to 20 before you.
- D) Copy of Affidavit of Shri Sunil Bajaj as Annx 21 to 22 before you.

The above documents could not produce before the Assessing Authority and Appellate Authority due to the said documents are misplaced by the Appellant.

Please therefore requested to you may be accept above.

Thanking You

Yours Faithfully



The justification of moving this Application is also mentioned in last para of Application and a prayer is made to accept the same.

11. Ld. DR for revenue does not have any objection if the Application of assessee is accepted but he requests that since the assessee has produced additional evidences by means of this Application, this issue should go back to the file of AO for factual examination of documents being filed by assessee and thereafter adjudication afresh. Ld. AR also prays to direct the assessee to ensure adequate participation before AO.

12. After a careful consideration and in the interest of justice, we admit assessee's Application and also agree to the proposal made by Ld. DR for revenue to restore this issue back to the file of AO. The AO shall adjudicate this issue afresh after giving necessary opportunities to assessee and after considering assessee's all submissions including the evidences filed as above. In doing so, the AO shall not be influenced by his previous order in any manner. The assessee is also directed to ensure adequate participation before AO failing which the AO shall be entitled to pass order as he thinks fit in accordance with law. Ground No. 3 is allowed in terms of these directions.

13. Resultantly, this appeal is partly allowed for statistical purpose.

Order pronounced in open court on 08/05/2025

Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

**Indore**

दिनांक /Dated : 08/05/2025

Patel/Sr. PS

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

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

By order  
Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore