

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

**ITA No.827/Ind/2024 (AY: 2011-12)**

Kalim Khan, 100 Khajarana Palace, Khajarana, Indore <b>(PAN: BROPK5723Q)</b>	<b><u>बनाम/</u></b> Vs.	Income Tax Officer, Indore
(Appellant)		(Respondent)
Assessee by	Shri N.D. Dave, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.05.2025	
Date of Pronouncement	16.05.2025	

**आदेश / O R D E R**

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

This is an appeal filed by the assessee in terms of 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/NFAC/S/250/2024-25/1069171717(1) dated 27.09.2024 passed by Ld. CIT(A) u/s 250 of the Act which is hereinafter referred to as the "**Impugned order**". The relevant Assessment Year is 2011-12 and the

corresponding previous year period is from 01.04.2010 to 31.03.2011.

2.

**FACTUAL MATRIX**

2.1 That as and by way of an assessment order dated 27.11.2018 made u/s 144/147 of the Act the assessee's total assessed income was computed at Rs.6,35,000/- which is hereinafter referred to as the **"impugned assessment order"**.

The broad issue is cash deposited in S.B.I, Patrakar Colony Branch, Indore S.B. A/c No.63040578791. Notice u/s 148 of the Act was received by the assessee calling upon him to file the ROI. Notice(s) u/s 142(1) of the Act was too issued to the assessee. Since there was non compliance by the assessee throughout best judgment was resorted to by the Ld. A.O. Hence the above **"impugned assessment order"** u/s 144 r.w.s. 147 of the Act.

2.2 That the assessee being aggrieved by the **"impugned assessment order"** prefers first appeal u/s 246A of the Act before Ld. CIT(A) who by the **"impugned order"** has dismissed the first appeal of the assessee on reasons and grounds specified therein.

2.3 That the assessee being aggrieved by the **“impugned order”** has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal against the **“impugned order”** which are as under:-

*“1. The learned CIT (A) failed to provide reasonable opportunity of being heard and present his case to the appellant.*

*2. The Learned CIT(A) has failed to understand that the appellant is an illiterate person having no knowledge and access to the internet and erred in not providing an opportunity to the appellant by service of notice in physical form.*

*3. The learned CIT (A) failed to appreciate that the cash deposited 3 in the bank account of the appellant is fully explained and erred Rs in confirming the unlawful additions made by the learned AO”.*

3. **Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 15.05.2025 when the Ld. AR for and on behalf of assessee appeared before this Tribunal and interalia pleaded that the **“impugned order”** is illegal, bad in law and not proper. It is passed in violation of the principles of natural justice in as much as no opportunity of any personal hearing of any type was afforded to the assessee before the **“impugned order”** was passed. The assessee had engaged a professional consultant who

ought to have attended the hearing fixed for 02.03.2021, 30.04.2024, 25.07.2024, 23.09.2024 and 25.09.2004 but on all these five dates of opportunities the assessee's consultant did not appear and for fault of his professional consultant assessee cannot be faulted with. Had a notice would have come to him by speed post or though a hard copy perhaps he would have followed up with his professional consultant but unfortunately that did not happen. Finally it was contended that since even the impugned assessment order" is u/s 144 it would be just fair and convenient that matter be re-looked in to afresh by providing opportunity to the assessee so that there is correct determination of income of the assessee according to law. The Ld. AR has placed on record of this Tribunal a paper book containing pages 1 to 16 in support of his case. In the said paper book copy of pass book of assessee, copy of registered sale deed dated 01.04.2011, copy of ikrarnama etc have been placed on record. Per contra Ld. DR appearing for and on behalf of revenue contended that both the orders of the lower authorities are ex-parte and has left the issue to this Tribunal to take appropriate decision in accordance with law. In brief the contentions of Ld. AR have not

been controverted by Ld. DR in an effective manner so that strong rebuttal emerges out of it.

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

4.1 We now have to adjudge and adjudicate the present appeal filed by the revenue on basis of the records of the case and contentions canvassed before us during the course of hearing. In brief we have to decide the legality, validity and the propriety of the **"impugned order"**.

4.2 We have carefully perused the records of the case as presented to this tribunal by both Ld. AR and Ld. DR to determine the legality, validity of the **"Impugned Order"** basis law and by following due process of law.

4.3 We basis records of the case and after hearing and upon examining the contentions of both Ld. AR and Ld. DR are of the considered view that though the Ld. AR has pleaded strongly that since the assessee is a senior citizen and all materials are now

produced before this Tribunal in form of paper book it would be prudent on part of the Tribunal being final fact finding authority to adjudge and adjudicate the present case on merits. We are afraid, we cannot subscribe to such contentions as while it is true that this Tribunal is final fact finding authority but at the same time this Tribunal is not first fact finding authority. Further both the orders of the lower authorities I.e. Ld. A.O & Ld. CIT(A) are not on merits. The registry produced before us is dated 01.04.2011 last page of registry is missing. We therefore are of the considered opinion that all issues on merits and demerits can be sorted out at the level of Assessing Officer more effectively and prudently. Under these facts and circumstances we deem it fit to set aside the **"impugned order"** and remand the case back to the file of Ld. A.O for a fresh adjudication on merits after giving assessee a reasonable opportunity of hearing. Hence **"impugned order"** is set aside and remanded to the Ld. A.O to pass a fresh order on *denovo basis*.

5.

**Order**

5.1 In the premises drawn up by us (supra) we set aside the Impugned order and remand the matter to Ld. A.O on *denovo basis*.

5.2 In result appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 16.05.2025.

Sd/-

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

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

Indore

दिनांक/ Dated : 16/05/2025

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