

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.176/Nag./2016
(Assessment Year : 2011-12)

Dy. Commissioner of Income Tax
Central Circle-2(2), Nagpur

..... Appellant

v/s

Shree Agarwal Finance India Pvt. Ltd.
216, Devi Kripa Society
Wardhaman Nagar, Nagpur 440 008
PAN – AABCA4981E

..... Respondent

Assessee by : Shri Sachin V. Luthra
Revenue by : Harshad S. Vengurlekar

Date of Hearing – 14/05/2025

Date of Order – 15/05/2025

ORDER

PER K.M. ROY, A.M.

The instant appeal by the Revenue is emanating from the impugned order dated 21/01/2016, passed by the learned Commissioner of Income Tax (Appeals)-3, Nagpur, [*learned CIT(A)*], for the assessment year 2011-12.

2. The Revenue has raised following grounds:-

"1. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in allowing additional evidence under rule 46A whereas the assessee's case is not covered by the exceptions provided under rule 46A of the 1T. Rules.

2. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of treating the income from house property of Rs. 3,18,989/- as business income.

3. On the facts and circumstances of the case, the learned CIT(A) erred in deleting the disallowance made by the Assessing Officer of Rs.1,36,709/- and

treating the same as business income, which was claimed as deduction u/s.24 by the assessee.

4. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer of treating the agricultural income of Rs.2,52,393/- as business income.

5. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer by disallowing dividend income of Rs. 20,15,681/- treated as Income from Other Sources. The Id. CIT(A) erred in allowing the income as exempt u/s.10(35) when the assessee had originally claimed as exempt u/s 10(34).

6. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of 68,02,624/- made on account of unexplained unsecured loans.

7. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.2,10,060/- made on account of unexplained creditors.

8. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.7,86,217/- made on account of disallowance of interest paid.

9. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.9,43,636/ made on account of disallowance of expenses on ad hoc basis.

10. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition made by the Assessing Officer by disallowing the deemed dividend of Rs.6,49,70,741 (Rs.6,46,05,741 + Rs.3,65,000) (Revised after rectification to Rs. 1,72,80,539/-).

11. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.40,63,928/- made on account of unexplained cash deposits.

12. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in deleting the addition of Rs.4,42,000/- on account of unexplained investment in land.

13. Any other ground that may be urged at the time of hearing."

3. During the year, the assessee herein was engaged in the business of trading of shares, finance and bill discounting. On 16/03/2011, a search and seizure action was conducted in assessee's group cases namely M/s. Shree Agarwal Coal India Pvt. Ltd. The assessee is one of the members of this

group. For the year under consideration, the assessee filed its return of income under section 139(1) of the Income Tax Act, 1961 ("*the Act*") on 29/09/2011, disclosing total income of ₹ 8,59,750. In this case the assessee has filed return of income under section 139(1) of the Act declaring total income at ₹ 8,59,750. Pursuant to search and seizure operation under section 132, notice under section 153A of the Act was issued on 24/09/2012. In the high pitched assessment under section 143(3) r/w section 153A of the Act the Assessing Officer made various additions by examining the Profit & Loss Account, Tax Audit Report and assessed income was computed at ₹ 8,14,83,740.

(i)	Claim u/s 24(a) from house property income disallowed	₹ 1,36,709
(ii)	Agricultural income has been treated as business income	₹ 2,52,393
(iii)	Dividend income claimed exempt u/s 10(34) treated as income from other sources	₹ 20,15,681
(iv)	Unsecured loan as under treated unexplained Dharampal Agarwal HUF Rs. 59,12,624 Agarwal Enterprises Rs. 8,90,000	₹ 68,02,624
(v)	Sundry Creditors treated as unexplained	₹ 2,10,060
(vi)	Interest paid disallowed	₹ 7,86,217
(vii)	Adhoc disallowances out of following expenses Remuneration Rs. 27,15,985 Administrative expenses Rs. 20,02,195 Disallowance at 20% <u>Rs.47,18,180</u>	₹ 9,43,636
(viii)	Loan from Shree Agarwal Coal India P.Ltd. treated as dividend u/s 2(22)(e)	₹ 6,46,05,741 (After Rectification: ₹ 6,49,70,741
(ix)	Loan from Mansa Agro Food Processing P. Ltd treated dividend u/s 2 (22)(e)	₹ 3,65,000
(x)	The deposits with bank treated as unexplained	₹ 40,63,928
(xi)	Investment in purchase of land treated unexplained	₹ 4,42,000
	Total:-	₹ 8,06,23,989

The assessee being aggrieved by the additions so made by the Assessing Officer carried the matter before the first appellate authority.

4. During the appellate proceedings, the learned CIT(A) considering the facts of the case and submission of the assessee, deleted all the above mentioned additions vide his impugned order dated 21/01/2016. Consequent upon issuance of the impugned order passed by the learned CIT(A), the Revenue preferred appeal before the Tribunal.

5. The learned Departmental Representative assailing the impugned order so passed by the learned CIT(A), placed reliance on the assessment order passed by the Assessing Officer to submit that addition is correctly made in assessment proceedings. He further argued that considering the absolute non-cooperation of the assessee during the assessment proceedings, it was not proper on the part of the learned CIT(A) to admit the additional evidences. The learned CIT(A) had mentioned nothing in his order as to how conditions of Rule 46A are satisfied in this case to enable him to send the case to Assessing Officer for remand report and that none of the ingredients of rule 46A are satisfied. The learned Departmental Representative contended that observations of the Assessing Officer in the remand report are not considered by the learned CIT(A) in its true sense and deleted the additions without completely analysing the issues and conclusion drawn by the Assessing Officer in his remand report and, therefore, considering the totality of circumstances, it would be appropriate to set aside the order.

6. On the other hand, the learned Authorised Representative for the assessee for the assessee submitted his point wise argument as under:-

"i) No incriminating documents or, undisclosed assets, cash, jewellery etc. was found. The assessee's accountant was present in Income tax office with books of accounts, documents, papers etc. on various dates but however, due to some reasons, the AO did not record his presence and declined to see the books of accounts, documents, papers produced. The assessee had also filed adjournment application on date of hearing. Assessee counsel also appeared on several occasions but his attendance was not marked. Since the assessee was not able to submit the details due to above reasons, the assessee approached the higher authorities before completion of assessment proceedings stating the fact that its accountant and staff was not allowed to submit the details or to produce books of account. Copies of letters written to higher authorities, namely Income Tax Officer (Vig)-1; CIT (central Circle); CBDT Ministry of Finance, GOI, New Delhi are enclosed herewith wherein the assessee has stated about the injustice caused by officers and has also mentioned the name of the concerned officers.

In view of the above, it is clear that, it was not a case where assessee did not appear before the AO but the assessee was prevented by sufficient cause from producing books of accounts and details before the AO in this case. There was gross injustice caused to the assessee as the assessee's submissions were ignored by the AO. The AO did not verify the books of account, bills, vouchers and other documents and had made all the additions on basis of surmises and conjectures.

In light of the above findings, the CIT(A) has admitted the additional evidences u/r 46A after considering all facts of the case and had called for remand report from the AO in regard to each addition made in the assessment orders. The CIT(A) had judiciously allowed additional evidences u/r 46A allowing sufficient time both to the assessee and the department. Thus, the cases are thoroughly verified by the department during remand and appeal proceedings.

ii) Regarding the additions, the AR relied on CIT(A) order."

7. Having given a thoughtful consideration to the arguments made by the rival parties and perusing the material available on record, we now address the issues raised by the assessee on a point-wise basis.

8. Ground no.1, raised by the Revenue relates to admission of additional evidence under Rule 46A.

9. During the course of hearing, both the learned Representatives are in agreement with us that this issue, on identical set of facts and circumstances, decided by us in Revenue's appeal being ITA no.289/Nag./2016, in assessee's own case in DCIT v/s Smt. Rajkumari Dharampal Agarwal, for the assessment year 2011-12, vide ground no.1, wherein we have decided this issue against the Revenue and in favour of the assessee by affirming the impugned order passed by the learned CIT(A) admitting the additional evidence under rule 46A. While maintaining the consistency with view taken therein, following the findings given by us in ground no.1, raised by the Revenue in the matter of Smt. Rajkumari Dharampal Agrawal cited supra, we, therefore, uphold the impugned order passed by the learned CIT(A) in admitting the additional evidence and hold that no contravention of Rule 46A has occurred in this case. Accordingly, ground no.1, raised by the Revenue is dismissed.

10. Ground no.2 & 3, raised by the Revenue being inter-connected and common, relate to the addition made by the Assessing Officer treating the income from house property of ₹ 3,18,989 as business income disallowance of ₹ 1,36,709, which was claimed as deduction under section 24 of the Act and treating the same as business income.

11. The Assessing Officer has considered the rental income as business income for the reason that the house property is shown by assessee as business asset in its Balance Sheet. For the purpose of computing income from house property under section 22 the assessee has to fulfil three conditions namely property should consist of any building or land appurtenant

thereto, assessee should be owner of property and it should not be used by assessee for his own business. It was submitted by the assessee since all three conditions are satisfied by the assessee, the rental income cannot be treated as business income. The property given on rent/lease is a flat in Hyderabad and the income cannot be treated under the head income from business only because the property is appearing in the Balance Sheet of the assessee company. The Assessing Officer has not given any logical reason for changing the head of income from 'Income from house property' to income from business. Considering the facts of the case, assessment order of Assessing Officer, submission of the assessee, as well as the documents produced before the Assessing Officer during the remand proceedings it is held that the rental income is income from House Property and hence assessee is entitled for deduction under section 24 of the Act. The CIT(A) has correctly deleted the additions made by the Assessing Officer which were based on the remand report. Therefore, the disallowance of income from house property of ₹ 3,18,989 as business income and the addition of ₹ 1,36,709, made by the Assessing Officer are held to be unjustified. Accordingly, these additions are deleted while confirming the impugned order passed by the learned CIT(A). Thus, ground no.2 & 3, raised by the Revenue are dismissed.

12. In ground no.4, raised by the Revenue, the Assessing Officer has treated agricultural income of ₹ 2,52,393 treating it to be business income.

13. The learned CIT(A) directed to delete the addition by observing as follows:-

"23. During the appellate proceedings, the evidences submitted by the assessee were examined by me. The 7/12 extracts of the land and the crops grown on 2.99 hectors (7.4 acres of land) were examined. Out of the total land of 23.24 hectors, 20.25 hectors of land is padit (non-arable). The bills of sale of the agricultural produce were produced by the assessee which were examined. It is seen that on the total cultivated land of 7.4 acres (2.99 hectares), the assessee has shown total receipts of Rs.2,76,292/- and net agricultural income of Rs.1,31,742/-. The net agricultural income per acre is approximately. Rs.17,802/-. The supporting evidences of cultivation and sales of the produce as well as the expenses incurred on cultivation have been furnished.

24. In the circumstances, I do not find any merit in the action of the AO to treat the agricultural income as false claim by the assessee. There is no evidence adduced by the AO to the contrary or to negate the claim of the assessee. The AO has not appreciated the evidences produced by the assessee in the assessment proceedings and has wrongly concluded that the addition made in the assessment order was justified.

25. In the result, the addition made by the AO of Rs.2,52,393/- towards the agricultural income as a taxable business income is deleted. The AO is directed accordingly."

14. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer which is based on the remand report. Thus, this addition is deleted as the assessee had proved agricultural income of ₹ 2,52,393. Ground no.4, raised by the Revenue is thus dismissed by upholding the impugned order passed by the learned CIT(A).

15. Ground no.5, relates to dividend income of ₹ 20,15,681 claimed as exempt under section 10(34) which was treated by the Assessing Officer as income from father sources.

16. The observations of the learned CIT(A) while deleting the addition made by the Assessing Officer on the above issue are as under:-

"30. I have considered the assessment order, submissions of Assessee, remand report of AO and assessee's response to it. The assessee has earned dividend income of Rs. 20,15,681/- from HDFC Mutual Fund (HDFC Floating Rate Income Fund and HDFC Top Two Hundred Fund & HDFC Equity Fund). In the balance sheet of the assessee company as on 31-03-2011, the investment Mutual Funds appears at Rs. 1,26,32,896/-. The assessee has submitted ledger account of HDFC Mutual Fund in submission dated 18-01-2016. The dividend from Mutual Fund is exempt u/s 10(35) of IT Act in the hands of assessee investor. In submission dated 13.01.2016 and earlier submission dated 27.11.2013, the assessee has submitted the details of the dividend received from HDFC Mutual Fund. In the assessment order, the AO has not adduced any basis or reasons to disallow assessee's claim. Even in the Remand Report, the AO has stated that relevant details were submitted by the assessee before the Ao, however, the AO has held the addition justified without any valid reason whatsoever.

I am of the considered opinion that the dividend income under discussion is exempt under section 10(35) of IT Act.

31. In the result, the addition made by the AO of Rs. 20,15, 681/- is deleted. The AO is directed accordingly."

17. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the addition made by the Assessing Officer which is based on the remand report. Thus, the addition is deleted as dividend income of ₹ 20,15,861 is exempt under section 10(3) of the Act. Ground no.5, raised by the Revenue is thus dismissed by upholding the impugned order passed by the learned CIT(A).

18. Ground no.6, raised by the Revenue relates to the addition of ₹ 68,02,624, made on account of unexplained unsecured loans.

19. The observations of the learned CIT(A) while deleting the addition made by the Assessing Officer on the above issue are as under:-

"36. I have considered the assessment order, submission of assessee, remand report, assessee's response to it, documentary evidence for the fresh loans of Rs.68,02,624 received from related parties etc. It is seen that assessee has given PAN No. confirmation letters, balance sheets, computation of income of lenders, bank accounts during the remand proceedings as stated by the AO in the Remand Report. The AO has not drawn any adverse inference from the evidences and details submitted by the assessee except stating that the details were not submitted during the assessment proceedings and hence, the additions were held as justified by the AO in Remand Report. The assessee has not only given the name, permanent account number (PAN, and complete address of the parties but also submitted copies of the balance sheet and bank accounts to evidence the entries of loan amounts. The addition made by the AO is held to be unjustified and without any basis whatsoever.

In the result the addition of Rs.68,02,624 is ordered to be deleted."

20. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer based on the remand report. The assessee had proved the identity, genuineness and creditworthiness of the lender. Thus, the addition of ₹ 68,02,624 is deleted. Ground no.6, raised by the Revenue is thus dismissed by upholding the impugned order passed by the learned CIT(A).

21. Ground no.7, raised by the Revenue relates to the addition of ₹ 2,10,060, made on account of unexplained creditors.

22. The observations of the learned CIT(A) while deleting the addition made by the Assessing Officer on the above issue are as under:-

"41. I have considered the assessment order, submission of assessee, remand report, assessee's response to it, copies of accounts of creditors etc. AO merely disallowed these creditors since nothing was given at the time of original assessment stage. In remand report, the Assessee has filed all the details from which it is clear that these are genuine business creditors and AO has accepted in remand report these liabilities are in order.

The addition of Rs.2,10,060 is ordered to be deleted. AO is accordingly directed."

23. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer which is based on the remand report. The addition deserves to be deleted, as the Assessing Officer has accepted that these are regular business creditors. The addition of ₹ 2,10,060, is hereby deleted, by upholding the impugned order passed by the learned CIT(A). Ground no.7, raised by the Revenue is thus dismissed.

24. Ground no.8, raised by the Revenue relates to the addition of ₹ 7,86,217 made by the Assessing Officer on account of disallowance of interest paid.

25. The observations of the learned CIT(A) while deleting the addition made by the Assessing Officer on the above issue are as under:-

"46. I have considered the assessment order, submission of AO, remand report and assessee's response to the remand report. It is seen that the assessee had made payment of interest through banking channels, TDS was made from interest amount and paid to the government account as submitted by the assessee and stated by the AO in remand report. Assessee is engaged in business of finance and money lending. The loans are used for business purposes and hence interest thereon is a business expense. AO merely disallowed this amount for the reason that at the time of original assessment the details were not furnished. In remand proceedings, the necessary evidences/details have been submitted. These evidences are verified and accepted by the Ao in his remand report. Regular books of accounts have been maintained by the assessee and there was no reason for the AO to disallow the expenses on interest paid. It is also not a case of the AO that the expenditure was in excess or disallowable u/s. 40A (2) (b) of the Income Tax Act. The assessee has complied with the provisions of TDS on the interest payments as stated by the AO in the Remand Report. On facts, it is held that the addition made by the AO was not justified. The addition of Rs. 7,86,217/- made by the AO due to disallowance of interest is, therefore, deleted. The AO is directed accordingly."

26. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer which is based on the remand report. Thus, this addition is deleted as the Assessing Officer has accepted that interest payment of ₹ 7,86,217, is proved to be regular business expense. Thus, the addition of ₹ 7,86,217, made by the Assessing Officer is hereby deleted by upholding the impugned order passed by the learned CIT(A). Accordingly, ground no.8, raised by the Revenue is dismissed.

27. Ground no.9, raised by the Revenue relates to the addition of ₹ 9,43,636 made by the Assessing Officer on account of disallowance of expenses on ad-hoc basis.

28. The observations of the learned CIT(A) while deleting the addition made by the Assessing Officer on the above issue are as under:-

"51. I have considered the assessment order, submission of assessee, remand report of AO, response It is seen that expenses arbitrarily In remand report, the the AO has 20% disallowed without any basis whatsoever. AO has stated that 'Books of accounts and vouchers were produced in support of the claim made in the letter dated 27.11.2013 (filed before CIT (A)-3, Nagpur) and the claim of expenditure was found to be in order. 'It is apparent that the AO has verified the books of account and vouchers in support of the claim of expenses by the assessee. However, the AO has held the disallowance justified stating that the net profit ratio has decreased from 43.37% in the last year to loss in this period. The aggregate claim of expenses was Rs 47,18,180/- in this year as compared to Rs 48,05,160/-claimed in the last year.

The claim of expenses of the assessee cannot be disallowed only because the net profit ratio is lower compared to the earlier year or it has resulted in to loss. Once the regular books of accounts are maintained by the assessee and are audited u/s. 44AB of the Income Tax Act, it is not open for the AO to disallow the expenses just because the net profit is lower compared to the earlier year. The AO has not given any specific instances of supporting vouchers not being available in respect of the expenses. Also the books of

accounts of the assessee have not been rejected by the AO. It is not a case of the AO that the assessee has not maintained books of accounts. No infirmity in the books of account has been reported by the AO. In fact, the assessee has maintained the books of accounts and the books of accounts have been audited as pointed out by the assessee in the appellate proceedings. The books of accounts have also not been rejected by the AO. The disallowance has been made applying a certain percentage on the claimed expenses.

In the case of A.T.C. Clearing & Shipping P. Ltd. Vs. ACIT-2(1), Mumbai, the Hon'ble ITAT in similar circumstances has held as under:-

"We have heard both the parties and their contentions have carefully been considered. We have also gone through the assessment order as well as the order passed by Ld. CIT(A). After careful consideration of all these materials we are of the opinion that Ltd. CIT (A) has committed no infirmity in deleting the disallowance. The assessee has maintained books of account ITA No.8738 & 8584/Mum/2010 (AY 2007-08) in regular course of its business. All these books of account alongwith bills and vouchers were produced before the AO. It is not the case of AO that any expenditure shown by the assessee is bogus. The assessment has been framed on the basis of books of account. The disallowance made by the AO is not based on any specific voucher for which it can be said that assessee did not incur such expenditure. The disallowance is adhoc and on estimate basis. No single evidence has been brought on record to show that any expenditure claimed by the assessee was not for the purpose of its business or it was not actually incurred. In these circumstances we decline to interfere with the relief granted by Ld. CIT (A) and the appeal filed by the revenue is dismissed."

Similar view has been taken by the Hon'ble Jabalpur Bench in the case of Waidhan ITAT, Engineering and Industries Pvt. Ltd. Vs. JCIT (2015) 0 Taxmann.com 440 (70 SOT 159).

In such circumstances, the disallowance made by the AO adopting a certain percentage without even justifying the basis of such percentage is held to be unjust and contrary to the provisions of law.

The addition of Rs. 9,43,636/- made by the AO on account of disallowance of expenses is ordered to be deleted. The AO is directed accordingly."

29. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the addition made by the Assessing Officer which is based on the remand report of the Assessing Officer. Thus, the ad-hoc addition made by the Assessing Officer at ₹ 9,43,636 which is made out of expenses without any basis is directed to be deleted by upholding the impugned order passed by the learned CIT(A). Accordingly, ground no.9, raised by the Revenue is dismissed.

30. Ground no.10, raised by the Revenue relates to disallowing the deemed dividend of ₹ 6,49,70,741 [₹ 6,46,05,741 (+) ₹ 3,65,000] (Revised after rectification to ₹ 1,72,80,539).

"56. I have considered the assessment order, remand report and submissions of the assessee. The assessee's reliance on judgements in his submission is also considered. It is observed that the deemed dividend added in order was in fact the repayment of loan advanced by assessee to Shree Agarwal Coal India Ltd. The assessee had given this loan in regular course of business of finance and lending. The assessee's case is covered by exception mentioned u/s 2 (22) (e) (ii) of the Act, as finance and lending are substantial part of business of the assessee. Lending of money for four wheelers/ two wheelers/ hundi advance is the regular business of the assessee. This fact is accepted by the AO in the remand report in assessee's case and also in case of Shree Agarwal that the transaction is not covered by the exception provided in section 2 (22) (e) (ii) of the IT Act. No adverse inference has been drawn by the AO on the details submitted by the assessee in the remand proceedings.

Coal India P. Ltd. The AO has adduced no evidence to establish that it was not a re-payment of loan in the normal course of business by the assessee and the AO has also not given any justification to establish

In view of the above, the addition of Rs. 6,49,70,741/-(Rs.1, 72,80,539/- after rectification) made by AO on account of deemed dividend is ordered to be deleted and AO is directed accordingly."

31. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer which is based on the remand report of the Assessing Officer. Thus, this addition of ₹ 6,49,70,741 (₹ 1,72,80,539 after rectification order under section 154) is directed to be deleted as assessee is engaged in the business of finance & lending which is covered under exception provided in section 2(22)(e) (ii) of the Act. Thus, the said addition is hereby directed to be deleted by upholding the impugned order passed by the learned CIT(A). Accordingly, ground no.10, raised by the Revenue is dismissed.

32. Ground no.11, raised by the Revenue relates to the addition of ₹ 40,63,928 made by the Assessing Officer on account of unexplained cash deposit.

33. The observations of the learned CIT(A) while deleting the addition made by the Assessing Officer on the above issue are as under:-

"61.1 have considered the assessment order, submission of assessee, remand report, assessee's response to the remand report and the documentary evidence produced before AO in remand proceedings. It is seen that the assessee is engaged in business of giving 2-wheeler & 4-wheeler loans to various parties in Nagpur and other various districts of Maharashtra. The borrowers repay the loan in cash and these amounts are collected by assessee's branch people and the consolidated amount is deposited in bank. Assessee has furnished complete details of such collections, person-wise details, cash books at HO and branches were produced before AO as reported by the AO in his remand report. The bank reconciliation statements and bank statements are also filed. The AO has accepted the evidences filled by assessee and cross checked it with bank accounts, accounts and debtors The AD has not pointed out any deficiency / error in books of accounts and other details/documents submitted by the assessee during the remand proceedings. The AO has not Inferences in his remand report. the drawn any adverse Therefore, I am of considered opinion that these are genuine business receipts which are properly accounted for, sources thereof are properly explained.

In these circumstances, it is held that the addition made by the was not justified. Therefore, the addition of Rs.40,63,928/- is directed to be deleted and AO is accordingly directed."

34. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer which is based on the remand report of the Assessing Officer. Since this source of cash deposit of ₹ 40,63,928 is accepted by the Assessing Officer in his remand report, the addition deserves to be deleted. Accordingly, upholding the impugned order passed by the learned CIT(A), the addition is hereby directed to be deleted. Thus, ground no.11, raised by the Revenue is dismissed.

35. Ground no.12, raised by the Revenue relates to the addition of ₹ 4,42,000, on account of unexplained investment in land.

"66. I have considered the assessment order, submission of assessee, remand report, response of assessee to the remand report and the evidence. It is seen that the assessee has purchased the land in question from its accounted sources and funds. The sale deed, bank statement, cheque details and copy of account in balance sheet were submitted by the assessee during the remand proceedings. The source of amount this is satisfactorily explained and AO has accepted the assessee's submission in his remand report."

Genuineness of the sources and transaction of investment are not disputed by AO in the remand report. The AO has not drawn any adverse inference on the assessee's submission. Considering that the sources of the investment are explained in assessee's hands and investment appears in the balance sheet, it is held that the addition of Rs. 4,42,000/- as unexplained investment is not justified.

Therefore, the addition of Rs.4,42,000 is directed to be deleted. The AO is accordingly deleted."

36. Considering the above findings, the issue does not require further discussion as the learned CIT(A) has correctly deleted the additions made by the Assessing Officer which is based on the remand report of the Assessing Officer. Since this source of addition of ₹ 4,42,000 of investment in land is accepted by the Assessing Officer in his remand report, the addition deserves to be deleted. Accordingly, upholding the impugned order passed by the learned CIT(A), the addition is hereby directed to be deleted. Thus, ground no.12, raised by the Revenue is dismissed.

37. While parting with this order, we place on record that the Co-ordinate Bench of the Tribunal, in ITO v/s Randhir Singh, [2018] 163 DTR 10/192 TTJ 64 (SMC), the Tribunal has held that once the Assessing Officer is satisfied in the remand proceedings and did not oppose nor controvert the documents filed by the assessee, the Assessing Officer cannot be said to be aggrieved by

the order passed by the learned CIT(A) considering his own remand report. Merely on account of change of the Assessing Officer, presumably incumbent cannot be allowed to file appeals wilfully. Such rampant behaviour shakes public trust. In Jayalakshmi v/s CIT, 96 taxman.com 486 (Mad.), the Hon'ble High Court had fortified the view of the Tribunal that once relief is granted based on the remand report of the Assessing Officer, the Revenue would be precluded from filing any further appeal before the Tribunal.

38. In the result, Revenue's appeal is dismissed.

Order pronounced in the open Court on 15/05/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 15/05/2025

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur