

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
(Through Virtual Mode)
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.118/JAB/2024
A.Y. 2012-13

Nagar Panchayat, Banda, Nagar Parishad Building, Banda, Sagar, Banda Nagar S.O. Madhya Pradesh	vs.	The ACIT, Circle Sagar, Sagar
PAN:AAALN0246R		
(Appellant)		(Respondent)

Assessee by:	Sh. Milind Wadhvani, C.A.
Revenue by:	Sh. Alok Bhura, Sr. DR
Date of hearing:	19.05.2025
Date of pronouncement:	30.05.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the order of the Id. CIT(A), NFAC dated 7.05.2024 whereby the Id. CIT(A) has dismissed the appeal of the assessee against the orders of the DCIT, Circle-Sagar, Madhya Pradesh passed on 10.12.2019 under section 147 r.w.s. 144 of the Income Tax Act, 1961. The grounds of appeal are as under:-

- “1. On the facts and circumstances of the case and in law, the Ld. National Faceless Appeal Centre (‘NFAC) erred in upholding the action of the Ld. Assistant Commissioner of Income Tax Circle-Sagar (‘AO) in adding a sum of Rs. 68,21,182/- to the income of the assessee u/s. 69A as unexplained money.*
- 2. On the facts and circumstances of the case and in law, the assessment order dated 10.12.2019 is without jurisdiction, bad in law and liable to be quashed.*
- 3. On the facts and circumstances of the case and in law, the assessment order is opposed to the principles of equity, natural justice and fair play.*

4. *On the facts and circumstances of the case and in law, the addition was made on the basis of mere conjectures, surmises and suspicions.*
5. *That the notice under section 148 dated 27.03.2019 is void and illegal hence liable to quashed.*
6. *That the Ld. AO could not have reason to believe that the income had escaped assessment in the hands of the appellant.*
7. *That the assessment was not reopened based on any new tangible material.*
8. *That there was no live link between material available on record and reasons to believe.*
9. *On the facts and circumstances of the case and in law, the assessment was completed without adhering to the statutory requirements of law.*
10. *On the facts and circumstances of the case and in law, the NFAC erred in upholding the action of the Ld. AO in invoking provisions of Section 115BBE of the Act.*
11. *That the appellant objects to the levy of interest under sections 234A, 234B, and 234C of the Act.*
12. *That The Ld. AO has misdirected himself in law in initiating penalties under section 271(1)(b) and 271(1)(c) of the Income Tax Act.*
13. *That the Ld. NFAC erred in confirming the above addition on mere conjectures, surmises and suspicions.*
14. *That the Ld. NFAC erred in not considering the explanations and submissions furnished by the appellant.*
15. *The appellant craves to add, amend, alter vary and or withdraw any or all the above grounds of appeal."*

2. The facts of the case are that, the assessee is a local authority, which as per the ld. AO had not filed its return of income for the assessment year 2012-13. As per the information available with the ld. AO, the assessee had deposited an amount of Rs.68,21,182/- in its savings A/c No.8005111287, maintained with the Madhyanchal Gramin Bank during the financial year 2011-12. Therefore, a notice under section 148 of the Income Tax Act was issued to the assessee and the assessee was asked to file the return of income. A notice under section 133(6) was also issued to Madhyanchal Gramin Bank which confirmed the fact that the assessee had deposited the cash amounting to Rs.68,21,182/-, as alleged by the Department. The assessee did not file a return of income with regard to the notice issued to it and therefore, the ld. AO issued a show cause notice to the assessee alongwith a notice under section 142(1). However, the assessee did not reply to this notice also and therefore, the ld.

AO added the amount of Rs.68,21,182/- to the income of the assessee under section 69A of the Income Tax Act.

3. Aggrieved with this addition, the assessee filed an appeal before the Id. CIT(A), Jabalpur which was subsequently migrated to the National Faceless Appeal Centre. The Id. CIT(A), NFAC records that he issued as many as nine notices to the assessee and it was only in response to the notice dated 7.02.2024 that the assessee filed its response for the first time. Certain clarifications were sought vide subsequent notices but none were provided by the assessee. The Id. CIT(A) considered the grounds of appeal and the statement of facts filed by the assessee. It was submitted that the Mukhya Nagar Panchayat, Banda was a local authority which was established by virtue of Gazette notification of the Government of Madhya Pradesh in the year 1979, for the purposes of facilitating essential services to the people of the local limits in matters such as sanitation, cleanliness, street lighting, roads and water supply etc,. To facilitate the above services, the Mukhya Nagar Panchayat collected various taxes from persons on behalf of the State Government and collected lease rentals by giving the Nagar Panchayat properties on lease. It was submitted that as per the provisions of section 10(20) of the Income Tax Act, 1961, the income of the authority was exempt from income tax. It was further submitted that the Id. AO had passed the order under section 144 of the Income Tax Act by considering the deposits as unexplained money, without considering the fact that the assessee was a local authority that was exempt from tax. It was submitted that this could have ascertained from a look at the PAN matrix, wherein the fourth character of the PAN always represented the status of the assessee and in the case of the assessee, whose PAN number was AAALN0246R, the fourth letter was 'L', which represented local authority. It was also submitted that the Id. AO had failed to upload the assessment order on Income Tax Portal which was mandatory in the case of e-assessments and since he had not generated the DIN number, the order would be invalid. It was, therefore, prayed that the addition may be deleted.

4. The ld. CIT(A) considered the arguments of the assessee and with regard to the issue of DIN, he pointed out that the assessee was factually incorrect because the order had been uploaded and the DIN was 20121105088. He, therefore, dismissed this ground of the assessee. With regard to its claim for exemption under section 10(20) as it was a local authority, it was observed that despite numerous opportunities provided by the NFAC, the assessee had not furnished any documentary evidence to establish its claim. It had requested for submission of additional evidences under Rule 46A, but no additional evidences as requested were furnished to establish the source of the impugned cash deposits. From the same, ld. CIT(A) concluded that the assessee did not possess the necessary documentary evidences in support of its grounds of appeal. He held that there was no dispute that the impugned cash deposits were deposited in the assessee's bank account and it was for the assessee to explain the source of these deposits. In the absence of explanation coming from the assessee for the deposits, the same was liable to be treated as unexplained within the meaning of section 68 as held by various Courts including the Hon'ble Apex Court in the case of Kale Khan Mohammad Hanif vs. CIT (1963) 50 ITR 1 (SC) and A. Govindarajulu Mudaliar vs. CIT (1958) 34 ITR 807 (SC). The ld. CIT(A), NFAC held that the provisions of section 69A were similar to that of section 68 and therefore, after placing reliance on various decisions that were quoted by him in his assessment order to the effect that the onus was upon the assessee to establish the identity of the person, creditworthiness of the person and the genuineness of the transaction, he held that the amount of Rs. 68,21,182/- had rightly been added back by the ld. AO. Accordingly, he dismissed the appeal of the assessee.

5. The assessee is aggrieved at this dismissal of its appeal. Sh. Milind Wadhvani, C.A. representing the assessee filed a paper book in which he filed copies of various notices downloaded from the e-filing portal showing that the hearing notices had not been sent to the email of the assessee and that the notices under section 148 and 142(1) were also not sent to the email of the assessee. Accordingly, it

was submitted that there were good reasons for the assessee not being able to comply to the proceedings before the ld. AO, as it had not received any of the notices sent by the ld. AO. It was reiterated that the ld. CIT(A) was unjustified in rejecting the claims of the Nagar Panchayat for exemption under section 10(20) when a mere glance at its PAN number would have established the veracity of its claim. It was further submitted that the cash deposit was purely out of proceeds from various taxes collected and other receipts of the local authority which were exempt from taxation. Accordingly, it was prayed that the non-compliance before the ld. AO was not deliberate and the ld. CIT(A) was unjustified in rejecting the appeal of the assessee.

6. On the other hand, Sh. Alok Bhura, ld. Sr. DR appearing on behalf of the Revenue submitted that not only had the assessee been non-compliant at the stage of assessment proceedings but also had not submitted any documentary evidences for its claim before the ld. CIT(A). Therefore, the rejection of its claims were justified and since the assessee had not furnished any explanation or evidences with regard to the cash deposited, the ld. AO was justified in making the addition.

7. We have duly considered the facts and circumstances of the case. It appears that the notices that were issued to the assessee Mukhya Nagar Panchayat were not mailed to its regular address but only reflected on the Portal. In the circumstances, there appears to be substance in the argument of the assessee that it was not aware of the fact of proceedings before the ld. AO. Assessee has also submitted that there was change of incumbency in the office of the assessee Mukhya Nagar Panchayat, which hampered the assessee in giving a timely reply to the show cause notices that were issued and subsequently served by the ld. AO. The assessee has also submitted that it is exempted from tax under section 10(20) of the Income Tax Act, 1961 and that the various deposits in the bank account represent the collection of taxes / receipts by it, which are exempted from income tax. The ld. CIT(A) has rejected such

arguments of the assessee on the grounds that evidence had not been placed. Considering the facts of the case, we believe it is in the interest of justice that the correct legal status of the assessee be brought out during assessment and the facts relating to the deposit of cash in the bank account of the assessee be also brought on record. Accordingly, we restore the matter back to the file of the ld. AO and direct the assessee to produce all necessary evidences before the ld. AO to establish its claims that it was exempt from income tax and that the deposits in its bank accounts represented receipts / taxes that were exempt from income tax. The ld. AO may thereafter, pass a *de novo* assessment after considering the evidences presented. The appeal of the assessee is accordingly allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 30.05.2025 in the open Court.

Sd/-

**[KUL BHARAT]
VICE PRESIDENT**

DATED: 30/05/2025

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Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR, ITAT,
4. CIT,
5. The CIT(A)

Sd/-

**[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER**

By order
Sr. P.S.