

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

I.T.A. No. 314/Asr/2024
Assessment Year: 2009-10

Umar Kabir, 225, Qamarwari,
Srinagar, Jammu & Kashmir
190010

Vs.

Income Tax Officer,
Ward-3(3), Srinagar

[PAN: BNOPK 7809M]

(Appellant)

(Respondent)

Appellant by : Sh. Udit Gupta and Ankush Kohli, C.As.
Respondent by : Sh. Charan Dass, Sr. D.R.
Date of Hearing : 27.05.2025
Date of Pronouncement : 30.05.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is preferred by the assessee against the order of the Ld. CIT(A) NFAC, Delhi, passed u/s 250(6) of the Act 1961, dated 05/02/2024, which has arisen out of the order of the AO, Ward-3(3), Srinagar, dated 16.12.2016, passed u/s 143(3)/147 of the Act.

2. Condonation of delay: It is pointed out by the registry that this appeal is belatedly filed by 45 (*forty five*) days. An application for condonation of delay has been filed by the assessee stating that the appeal order has been received on 5th February, 2024, and the appeal before the tribunal should have been filed within sixty days there from, but on account of medical problems the assessee had to undergo treatment at District hospital, Handwara (*Kashmir Division*) in support of which medical *OPD card has been filed*. He prays for condonation of the delay on medical grounds and for admission of the appeal for hearing on merits. The Ld DR has no objection. Considering the factual circumstances, and in absence of any willful neglect on the part of the assessee, we condone the delay and admit the appeal for hearing on merits.

3. The grounds of appeal contained in form 36, relates to only one single issue of dispute regarding the addition of Rs. 27,57,000/- made by the AO , on account of advance received from customers (*as per the AO the said amount is unsecured loans obtained from parties as per details contained in para-5 of the assessment order*).

4. During assessment proceedings, the assessee was unable to prove the identity, creditworthiness and genuineness of the loan transactions of *Rs. 27.57 lakhs*, to the satisfaction of the AO , resulting in one of the additions to the total income, assessed

at Rs. 91.16 lakhs (vide final computation of the AO dated 16/12/2016 u/s 143(3)/147).

5. The matter carried in appeal before the Ld CIT (A), has been disposed off vide appellate order dated 5th February, 2024, NFAC, passed by Ld CIT (A) , u/s 250(6) of the Act 61, without adjudicating on the addition of *Rs.27.57 lakhs*, even though it is a part of the remand report furnished by the AO in course of first appellate proceedings (*as evident from page -12 of appellate order para-5*).

6. Before us in course of the hearing the Ld AR of the assessee pointed out that even though in the appellate order , last paragraph (last sentence) , the result is noted as “ *Appeal is allowed* ”, but from the body of the appellate order, it is seen that there is no discussion of the said addition of *Rs. 27.57 lakhs* or its deletion, which means that the said addition is left intact , in absence of any specific findings of the appellate authority on the issue of unsecured loans/ (*or unsecured advance as claimed by the assessee in his written submission*) .

7. The Ld DR, after examination of the records in the court , has admitted the inadvertent omission on the part of the first appellate authority.

8. As such considering the facts and materials on record and after hearing both the counsels, we remand the matter to the Ld CIT (A), only on the specific issue to adjudicate on the specific ground relating to the addition of *Rs. 27.50 lakhs*, alleged

as unexplained loans as per AO (*or customer advance as claimed by assessee*) ,
which might have been inadvertently left out, while framing the appellate order.

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

Order pronounced in open court as on 30.05.2025.

Sd/-
(Brajesh Kumar Singh)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1)The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order