

आयकर अपीलिय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND  
SHRI PARESH M JOSHI, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 482/Ind/2024  
(निर्धारण वर्ष / Assessment Year : 2013-14)

<b>Mahendra Kumar Verma</b> Flat No.301, Classic Dream, 5-6, Paliwal Nagar, Indore (M.P.) -452011	<b>बनाम/</b> Vs.	<b>ITO-4(1)</b> Indore
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ACSPV2701P</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

अपीलार्थी ओर से /Appellant by :	Shri S. N. Agrawal & Shri Pankaj Mongra, A.Rs.
प्रत्यर्थी की ओर से/Respondent by :	Shri Ashish Porwal, Sr.DR

<b>Date of Hearing</b>	17/04/2025
<b>Date of Pronouncement</b>	24/06/2025

ORDER

**PER SMT. ANNAPURNA GUPTA, AM:**

The present appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), (hereinafter referred to as "CIT(A)"), National Faceless Appeal Centre (hereinafter referred to as "NFAC"), Delhi dated 06.05.2024 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") and relates to Assessment Year (A.Y.) 2013-14.

2. The grounds raised in the appeal by the assessee are as under:

- “1. *That on the facts and in the circumstances of the case and in law, notice issued under section 148 of the Income-Tax Act, 1961 on 30-03-2021 for reopening the case of the appellant for the Assessment Year 2013-14 was barred by limitation of time*
2. *That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in upholding the validity of reassessment proceedings initiated under section 147 of the Income-Tax Act, 1961 on the basis of reasons recorded by the Assessing Officer which were undated and unsigned and which contained non-existent/ factually incorrect facts thereby undermining the validity of entire reassessment proceedings*
3. *That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in upholding the validity of reassessment proceedings initiated under section 147 of the Income-Tax Act, 1961 even when reopening was done in absence of any tangible material and live link of concealment of income and merely for verification of source of investment made in the partnership firm*
4. *That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in upholding the validity of reassessment proceedings initiated under section 147 of the Income-Tax Act, 1961 even when reopening was done merely on the basis of borrowed satisfaction without independent application of mind*
5. *That on the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in upholding the validity of reassessment proceedings initiated under section 147 of the Income-Tax Act, 1961 even when reopening was done without obtaining proper sanction from the competent authority as mandated by the provisions of section 151 of the Act*
6. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 88,00,000/- made by the Assessing Officer to the total income of the appellant on account of source of investment made in the partnership firm by considering it to be unexplained and non-genuine and by treating it as unexplained investment in firm under section 69B of the Act without properly appreciating the facts of the case and submissions made before him/her*
7. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of the*

*Assessing Officer in invoking the provisions of section 69B of the Act in respect of addition of Rs. 88,00,000/- made to the total income of the appellant on account of source of investment made in the partnership firm by considering it to be unexplained and non-genuine and by treating it as unexplained investment in firm.”*

3. The facts relating to the case are that the assessee had filed his income tax return for the impugned year i.e. A.Y. 2013-14 declaring total income of Rs.7,71,103/-. The Assessing Officer (AO) came in possession of information that the assessee had made investments amounting to Rs.88,00,000/- out of unexplained sources. On the basis of this information, he assumed jurisdiction to reopen the case of the assessee by issuing notice u/s.148 of the Act on 30.03.2021. Thereafter, assessment was framed u/s.147 r.w.s. 143(3) of the Act making addition of the impugned amount of Rs.88,00,000/- to the income of the assessee u/s69B of the Act on account of source of the said investment remaining unexplained.

4. Before us the assessee has challenged the addition raising both legal grounds as well as grounds on merits of the addition made. Ground No 1-5 are the legal grounds raised by the assessee. Before us arguments were made vis a vis Ground No.4 alone. Accordingly Ground No.1-3 & 5 are dismissed in the absence of any arguments made before us.

5. Vis-à-vis the legal ground raised by the assessee in Ground No.4, his contention was that the jurisdiction assumed by the AO to reopen the case of the assessee u/s.147 of the Act was not in accordance with law, since the reasons recorded by the AO

forming belief of escapement of income of the assessee revealed that it was borrowed satisfaction of the AO with no application of mind by him at all. The copy of the reasons recorded were placed before us at paper book page no.12B, which reads as under:

*“The assessee has filed a return of Income for AY 2013-14 declaring total Income of Rs.7,71,103/- on 21.10.2013.*

*As per AIR information forwarded by ITO-1(1), Indore on 04.02.2019, the assessee has made investment of Rs.80,00,000/- during the FY. 2012-13 in immovable property of 4.05 Hectare, worth Rs. 4,22,00,000/- which was purchased by him from M/s JVK Infra, Indore during the year under consideration on perusal of records it is also noticed that the DDIT(Inv.)-1, Bhopal has also forwarded an inquiry report in the case of the assessee on this issue vide his letter F.No. DDIT(Inv.)-1/AA/2018-19/6276 dated 22.03.2019. On perusal of report it is noticed that shri Rajesh Kalra, Mahendra Verma and Shri Ashish Jaiswal were partners of M/s JVK Infra (PAN: AAIFJ6223A). The partner of the firm were requested to furnish the source of capital contributed and loan given to the firm. However, Shri Mahendra Verma did not attend to the summons issued by the DDIT(Inv.), Bhopal and also failed to explain the source of investment made by him in the firm. On perusal of bank account of the firm it is noticed that Shri Mahendra Verma has made following investment in the firm M/s. GVK Infra*

S. No.	Date	Details	Cheque/UTR No.	Credit (Rs.)
1.	23.05.2012	By RTGS	COSBH12147004628	Rs.40,00,000/-
2.	26.05.2012	By RTGS	COSBH12147004602	Rs.48,00,000/-
<i>Total</i>				<i>Rs.88,00,000/-</i>

*Since Shri Mahendra Verma the assessee has failed to explain the source of Rs. 88,00,000/- investment made in the firm as a partner income to that extent has escaped assessment within the meaning of section 147 of the IT Act 1961.*

*The source of investment for made in the firm is unexplained therefore in view of Explanation 2(b) to. Section 147 of the IT Act, 1981, I am satisfied that the income of the assessee has exceeded the maximum amount which is not chargeable to tax, and that the*

*assessee has failed to offer income to the above extent. It is a clear case of "income chargeable to tax having escaped assessment".*

*I, therefore, have reason to believe that income of Rs. 88,00,000/-chargeable to tax has escaped assessment within the meaning of Section 147 of the Income Tax Act, 1961 during AY 2013-14. Thus, notice u/s 148 of the IT Act is being issued, and the case for the AY 2013-14 is being reopened to assess the above mentioned income and any other income chargeable to tax which has escaped assessment and which comes to my notice subsequently in the course of proceedings under this section."*

6. The contention of the Ld. Counsel for the assessee of the reasons recorded being borrowed satisfaction rested on the fact that there was several inconsistency in the reasons, with the AO initially recording information in his possession obtained from the ITO-1(1), Indore of the assessee having made investment of Rs.88,00,000/- in an immovable property purchased by him from M/s. JVK Infra. Subsequently, he pointed out from the reasons, that the AO recorded information obtained from DDIT(Inv.)-1, Bhopal, by way of enquiry report, revealing that the assessee was a partner in JVK Infra and had invested Rs.88,00,000/- in the said firm and despite repeated request to furnish the source of capital invested, no explanation was furnished by the assessee.

7. His contention was that it is evident that the AO's reason to believe escapement of income rested merely on AIR information available with him and the report of the DDIT(Inv.)-1, Bhopal, which informations were both on different lines, with one revealing investment of Rs.88,00,000/- having been made by the assessee in immovable property and the other revealing investment of Rs.88,00,000/- to have been made by the assessee in the partnership firm M/s JVK Infra.

8. We have considered the contention of the Ld. Counsel for the assessee and we do not find any merit in the same. Though the AO does refer in the reasons recorded to information in his possession of assessee having invested Rs 88lacs in immovable property, at the same time he also notes another information in his possession of the impugned investment being made by the firm, M/s JVK Infra, in which he is a partner and the assessee having invested Rs.88 lacs as capital therein. The reasons reveal that the AO verified this information from the bank account of the firm and found it to be true and noting that the assessee had given no explanation of the source of the said investment on inquiry conducted by the department, he formed belief of income to the said extent of investment made by the assessee in the firm, having escaped assessment. There is, we find, no discrepancy as pointed out by the Ld.Counsel for the assessee. The AO's belief of escapement of income is clearly on account of his investment as capital in the firm remaining unexplained and not investment in immovable property by the assessee. Also, as noted above by us, the AO has examined the information, verified it with the bank account of the firm and then formed belief of escapement of income. There is, we hold, clear application of mind by the AO while forming belief of escapement of income and the contention of the Ld. Counsel for the assessee otherwise, therefore, is rejected by us.

9. Ground No.4 is accordingly dismissed .

10. Taking up the ground raised on merits of the case in ground no 6, Ld. Counsel for the assessee contended that the Ld. CIT(A) confirmed the addition made by the AO of Rs.88lacs u/s 69C of the Act by extracting adverse information from the details submitted by the assessee with respect to the source of investment of Rs.88,00,000/- in partnership firm JVK Infra and without confronting the said adverse information to the assessee. He pointed out from the order of the Ld. CIT(A) that the Ld. CIT(A) at para 5.3 of his order noted the fact that the assessee's explanation of the source of the investment in the partnership firm of Rs.88,00,000/- from unsecured loans from various creditors was evidenced with all necessary documents i.e confirmation letters, bank statement, ITRs of the loan creditors. He drew our attention to Para 5.3 of the CIT(A)'s order in this regard as under:

*“5.3 On perusal of the facts and grounds of the case, arguments of the appellant and the evidences placed on record, it is evident that the appellant has invested Rs.88,00,000/- in the firm M/s JVK Infra on 26/05/2012, wherein, the appellant is stated to be a partner as under:-*

S. No.	Date	Details	Cheque/UTR No.	Credit (Rs.)
1.	26.05.2012	By RTGS	COSBH12147004628	Rs.40,00,000/-
2.	26.05.2012	By RTGS	COSBH12147004602	Rs.48,00,000/-
<i>Total</i>				<i>Rs.88,00,000/-</i>

*In regards to the source of investment, it is claimed by the appellant that he had availed unsecured loans from following creditors as under:-*

S. No.	Details of Creditors	PAN	Loan Amount	Date of loan
1.	Smt Ramadevi Verma	APHPV8919F	5,45,000	26.04.2012
2.	Shri Rajneesh Verma	APHPV8918E	10,25,000	
3.	Shri Rajendra Verma HUF	AAPHR4291D	9,73,000	
4.	Smt Rakhi Verma	APHPV8982L	10,14,000	
5.	Shri Lavish Verma	APKPV7279M	10,20,000	
6.	Smt Alka Verma	APHPV8923K	10,20,000	27.04.2012
7.	Smt Veena Verma	APHPV8985P	10,32,000	
8.	Shri Dharmeshwar Verma HUF	AAHHD4976P	9,65,000	28.04.2012
9.	Shri Hemant Verma HUF	AAEHH3316L	5,23,000	
10.	Rajesh Kalra HUF	AAPHR1766M	9,00,000	04.05.2012
Total:			90,17,000	

***The appellant has also submitted copies of the confirmation letters, bank statements, ITRs of all the loan creditors to substantiate identity, genuineness and credit worthiness of the loan creditors and are placed on record. On perusal of the bank statement of the appellant, it is evident that he had received the aforesaid loan amounts in his bank accounts on the dates mentioned against each above and the same were transferred to autosweep recurring deposits accounts and on prior to making the RTGS transfers of Rs. 48,00,000/- and Rs. 40,00,000/- the said accounts were closed and the interests accrued were credited to his bank accounts. To this extent, the appellant's claim is found to be in order.***

11. Ld. Counsel for the assessee, thereafter, pointed out that from the details so submitted by the assessee regarding various loan creditors, the Ld. CIT(A) extracted several facts, which were adverse to the assessee and using these facts, he confirmed the addition made in the hands of the assessee holding that the source

of investment remained unexplained. He drew our attention to para 5.3.1 in this regard as under:

*5.3.1 Now coming to the part of the loan creditors, it is evident that all the loan creditors mentioned in para 5.3 have confirmed about their loans given to the appellant vide their letters all dated 22/02/2022 with mentioning their PANs to prove their identities. To prove genuineness and credit worthiness, the appellant has submitted the copies of the bank statements and copies of the ITRs filed for AY 2013-14. The aforesaid details are summarized as under-*

Sr. No.	Creditor	Loan Amount	Date of Loan	Amount credited prior to loan	Date credit	Cheque No.	Bank	A/c Opened on	PAN Allotted
1.	Smt Ramadevi Verma	5,45,000	26.04.2012	5,02,140	20.04.2012	312276	UTI Bank	02.03.2012	14.03.2012
2.	Shri Rajneesh Verma	10,25,000	26.04.2012	4,03,298 4,98,180	27.03.2012 20.04.2012	312333 312275	UTI Bank	23.02.2012	14.03.2012
3.	Shri Rajendra Verma HUF	9,73,000	26.04.2012	4,02,303 4,96,790	29.03.2012 25.04.2012	312336 312279	UTI Bank	23.02.2012	22.03.2012
4.	Smt Rakhi Verma	10,14,000	26.04.2012	4,00,535 4,85,120	27.03.2012 20.04.2012	312330 312273	UTI Bank	23.02.2012	14.03.2012
5.	Shri Lavish Verma	10,20,000	26.04.2012	4,01,917 4,94,780	29.03.2012 25.04.2012	312335 312278	UTI Bank	23.02.2012	28.03.2012

6.	Smt Aika Verma	10,20,000	27.04.2012	4,00,763 4,92,175	27.03.2012 20.04.2012	312331 312274	UTI Bank	23.02.2012	14.03.2012
7.	Smt Veena Verma	10,32,000	27.04.2012	4,04,653 4,99,195	29.03.2012 20.04.2012	312334 312277	UTI Bank	23.02.2012	14.03.2012
8.	Shri Dharmeshwar Verma HUF	9,65,000	28.04.2012	3,97,596 4,93,180	29.03.2012 27.04.2012	312338 312283	UTI Bank	23.02.2012	21.03.2012
9.	Shri Hemant Verma HUF	5,23,000	28.04.2012	4,94,130	27.04.2012	312282	UTI Bank	23.02.2012	21.03.2012
10.	Rajesh Kalra HUF	9,00,000	04.05.2012	4,98,620	27.04.2012	312280	UTI Bank	illegible print	31.12.2011

*From the aforesaid table, following facts emerge:-*

*(a) All the 09 bank accounts (Sr. 1 to 9) were opened almost on same date or just one or two months prior to the loans were given.*

*(b) All the 09 bank accounts (Sr. 1 to 9) were opened in the same bank ie. Canara Bank and in the same branch.*

*(c) All the 10 creditors received almost similar amount just prior to the loans were given.*

*(d) All the amounts credited in the creditors bank account were from the same person through cheques bearing nos. 312273 to 312283 & 312330 to 312338.*

*(e) All the creditors had filed their returns for the first time in AY 2012-13 onwards and Shri Lavish Kumar (PANAPKPV7279M) @ Sr. No. 5 filed his return of income from 2013-14 onwards. Also, Shri Shri Dharmeshwar Verma HUF (Sr. 8) and Shri Hemant Verma HUF (Sr. 9) had filed their return of income for AYs 2012-13 to 2014-15 and afterwards, there are no details of filing any return of income.*

*(f) On perusal of the PAN details in database, it is evident that other than PAN of Rajesh Kalra HUF (Sr. 10), all the nine PANs were allotted between 14.03.2012 to 28.03.2012 which is just one month before the loans were given to the appellant.*

*All the aforesaid observations cannot be mere coincidence but a systematic approach of the appellant to camouflage his unaccounted money in the disguise of banking transactions so that it can be claimed that all the creditors have fulfilled the criteria to establish their identities, credit worthiness and genuineness of the transactions. The appellant failed to explain the reason or purpose of the loans availed from all these creditors and he also failed to provide details of any collateral deposits against the loan. It is argued by the appellant that he had introduced the alleged capital in the firm, however, no income from the firm has been shown in the return of income as was correctly pointed out by the AO in his order. The AO has further pointed out in the assessment order that the appellant has shown nil creditors in the computation of income besides, abstaining from the declaration of the alleged transaction in the firm in his return of income. The appellant has not also explained the source of the incomes of the loan creditors. All these facts and discussions lead me to conclude that the appellant has routed his unaccounted money through the hands of the creditors and these creditors had no genuine taxable hands. Thus, the source of the investment made in the firm of Rs. 88,00,000/- still remains unexplained. The appellant has further relied on catena of*

*judgements in his favor, however, the facts of the cases are different to the facts of the instant case and hence the same are respectfully rejected in the light of the facts and circumstances of the instant case. As regards to the addition made u/s 69B of the Act, it is held that all the three ingredients as mandated under the provisions of this section i.e. (i) the appellant has made investments in the current FY immediately preceding to the AY 2012-13, (ii) the investment was not recorded in the appellant's books of account and (iii) the AO was not satisfied with the explanation of the appellant are fulfilled in the instant case. Reliance is placed in the decision of the Hon'ble Supreme Court in the case of Kale Khan Mohammad Hanif v. CIT reported in [1963] 50 ITR 1 held that "If an assessee fails to prove satisfactorily the source and nature of certain amount received during the accounting year, the Assessing Officer is entitled to draw the inference that the receipts are of an assessable nature."*

*Hence, considering the totality of the facts and discussions made above, the action of the AO in making addition of Rs. 88,00,000/- u/s 69B of the Act is sustained and the ground no. 6 is thus dismissed."*

12. Referring to the above he pointed out that the facts noted by the Ld. CIT(A) in this regard was that all the creditors from whom the loan was taken by the assessee had opened bank account on the same date or just 1 or 2 months prior to the loans were given, the bank accounts were opened in the same bank in the same branch and all the creditors received similar amount just prior to the loans were given. Also that, the amounts credited in the creditors' bank account were from the same person through the same series of cheques. All the creditors had filed their return of income for the first time in the immediately preceding year only and, thereafter, there was no details of any filing return of income and even PAN Nos. were allotted in the impugned year only to all the creditors.

13. He pointed out that based on this information, the Ld. CIT(A) found that the creditors were not genuine but it was a

systematic approach of the assessee to camouflage his unaccounted money in the disguise of bank transaction.

14. Ld.Counsel for the assessee contended that none of the adverse inference or information so drawn by the Ld. CIT(A) was ever confronted to the assessee. He pleaded that the addition confirmed by the Ld.CIT(A) was against the principles of natural justice and needed to be deleted.

15. Ld. DR though heavily supported the findings and the Ld. CIT(A) was unable to controvert the contentions of the Ld. Counsel for the assessee that adverse inferences drawn by the Ld. CIT(A) was not confronted to the assessee by the Ld. CIT(A).

16. In the light of the above, since, it is an undisputed fact that Ld. CIT(A) held the investments made by the assessee in the partnership firm of Rs.88,00,000/- during the impugned year to be from unexplained sources based on the information collated by the Ld. CIT(A) and adverse inferences drawn therefrom, which were not confronted the assessee, to meet the ends of justice therefore we consider it fit to restore this issue to the Ld. CIT(A) with the direction that the assessee be given sufficient opportunity to file his rebuttal to the adverse inference drawn by the Ld. CIT(A) and, thereafter, adjudicate the issue in accordance with law.

17. Ground of appeal No.6 is, therefore, allowed for statistical purposes.

18. No arguments were made vis-a-vis ground no.7 and the same is therefore dismissed.

19. In effect, the appeal filed by the assessee is partly allowed for statistical purposes.

**This Order pronounced on 24/06/2025**

Sd/-  
**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

Indore

दिनांक /Dated : 24/06/2025

Sr. PS

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

Sd/-  
**(SMT. ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

True Copy

By order

Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore