

आयकरअपीलीयअधिकरण, रायपुर न्यायपीठ,रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्रीअरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 239/RPR/2025

(निर्धारण वर्ष Assessment Year: 2017-18)

Anand Foods, Chitod, Gurur, Dhamtari-493773, C.G.	v s	Income Tax Officer, Ward-Dhamtari
PAN: ABCPA5044P		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Praveen Khandelwal, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	24.06.2025
घोषणा की तारीख / Date of Pronouncement	:	30.06.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal preferred by the assessee is directed against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi, [in short "Ld. CIT(A)"], passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 13.02.2025, for the Assessment Year 2017-18, which in turn arises from the assessment order u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 29.03.2022, passed by Assessing Officer, National Faceless Assessment Centre, Income Tax Department, Delhi (in short "Ld. AR").

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

1. *That on the facts and circumstances of the case and in law, the order u/s 250 of the Act dated 13.02.2025 passed by CIT(A), NFAC is illegal and bad in law.*
2. *That on the facts and circumstances of the case and in law, the order u/s 147 r.w.s. 144 of the Act dated 29.03.2022 passed by Assessing Officer, NFAC is illegal and bad in law.*
3. *That on the facts and circumstances of the case, the assessing officer erred in making an addition of Rs. 1,19,20,000/- u/s 69A of the Act to the returned income of the appellant.*
4. *The appellant craves to add, alter or delete any of the above grounds of appeal during the course of appellate proceedings.*

3. Brief facts of the case are that the assessee is a resident firm, did not filed its Return of Income for the AY 2017-18. The case of assessee was reopened u/s 147, assigning the reason that the assessee has made cash deposits of Rs. 1,19,26,000/- and cash withdrawal of Rs. 56,20,000/- from its current account maintained with Bank of Baroda in the relevant FY 2016-17. Accordingly, notice u/s 148 was issued on 28.03.2021 and served upon the assessee. In response the assessee filed Return of Income on 08.03.2022, declaring total income of Rs.Nil, but the Ld. AO observed that the return is not filed within the time allowed u/s 148. Subsequently, notices u/s 142 were issued on various occasions, which were partly responded by the assessee on two occasions out of four opportunities provided. During the assessment proceedings, the assessee raised certain objections that (i) the notice u/s 148 of the Act dated 28.03.2021 was never served upon the assessee, neither any email or any text message has been received by

the assessee, (ii) Notice u/s 142(1) dated 26.11.2021 was not served upon the assessee and (iii) Since notice u/s 148 dated 28.03.2021 was never served to assessee, the proceedings initiated u/s 147 are illegal and invalid, therefore, the same are liable to be dropped.

4. The objections of the assessee are rejected by the Ld. AO stating that the notice u/s 148 dated 28.03.2021 was sent on the last known address of the assessee by speed post No. EC1888518641IN. Hence, it is established that the notice u/s 148 was properly issued and served to the assessee. Regarding notice u/s 142(1), it was recorded by Ld. AO that these were delivered to the assessee on the same day, but the assessee has not responded in compliance with these notices.

5. With the aforesaid observations, Ld. AO enhanced the income of assessee by making an addition for Rs. 1,19,29,000/- u/s 69A of the Act, as unexplained money, on account of assessee's failure to furnish any plausible explanation towards cash deposits in the bank account.

6. Aggrieved with the aforesaid addition, the assessee preferred an appeal before the Ld. CIT(A), wherein it is observed that assessment has been completed by the Ld. AO on *ex-parte* basis as there was no compliance by the assessee on the merits of the issues. The assessee failed to substantiate its claim with

supporting documentary evidence at the assessment stage. Ld. CIT(A) further observed that the appellant has made written submissions with some documents before him, but were not furnished before the Ld. AO, therefore, he passed the *ex parte* order without having any opportunity to consider the submissions / evidence in the present case. Accordingly, the Ld. CIT(A) set aside the impugned reassessment order u/s 147 by invoking powers under the proviso below to clause (a) of sub-section (1) of section 251 of the Income Tax Act, 1961. Resultantly, Ld. CIT(A) directed Ld. AO to make fresh assessment after providing sufficient opportunities of being heard, considering all material facts, written submission and documentary evidence submitted by the assessee during the appellate proceedings as well as in the set aside assessment proceedings.

7. Being dissatisfied with the aforesaid order of Ld. CIT(A), assessee preferred an appeal before us, which is under consideration in the present matter.

8. At the outset, it is contended by the Ld. AR on behalf of the assessee that the order passed by Ld. CIT(A) is illegal and bad in law. That on the facts and circumstances of the present case, the Ld. AO had erred in making the addition u/s 69A to the return income of the appellant. Ld. AR before us had raised certain legal contentions *qua* the order of Ld. AO that it was wrongly passed / issued u/s 147 r.w.s. 144 r.w.s. 144B, whereas the assessee had made compliances during the assessment proceedings, which is apparent as per the last para of the

assessment order, wherein the Ld. AO himself had mentioned that the assessment is completed u/s 143(3) / 147 r.w.s. 144B, the assessment, therefore, is liable to be struck down.

9. Per contra, Ld. Sr. DR, Dr. Priyanka Patel, representing the revenue vehemently supported the order of revenue authorities, submitted that documentary evidence furnished by the assessee before the First Appellate Authority are duly considered and the matter was restored to the file of Ld. AO, so as to allow to assessee to reasonably represent its case before the Ld. AO, and, substantiate its contentions in the second round of proceedings. Such action of Ld. CIT(A) is a relief to the assessee, there is no prejudice against the assessee, therefore, the order of Ld. CIT(A) is reasonable and justified, the same deserves to be upheld.

10. We have considered the rival submissions and perused the material available on record. Admittedly, in the present case, the assessee has assailed the contention regarding the validity of service of notice issued u/s 148, before the Ld. AO, but have not submitted any response or clarification or explanation towards the merits of the issue regarding cash deposits and withdrawals in its bank account. Before the Ld. CIT(A), the assessee furnished requisite information which was never placed before Ld. AO, therefore, the matter has been restored back to the file of Ld. AO for necessary verifications and to frame the assessment,

accordingly. The assessee is granted adequate opportunities to substantiate regarding the issues raised in the set aside assessment proceedings.

11. Under such facts and circumstances, we find justification in the decision of Ld. CIT(A) in setting aside the impugned order of Ld. AO for fresh assessment after considering all the material facts, written submissions and documentary evidence furnished by the assessee. Accordingly, the order of Ld. CIT(A), in absence of any infirmity does not call for any interference. Consequently, the impugned order of Ld. CIT(A) is sustained.

12. Resultantly, in ITA No. 239/RPR/2025 filed by the assessee is **dismissed**, in terms of our aforesaid observations.

Order pronounced in the open court on 30/06/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 30/06/2025
Vaibhav Shrivastav

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Anand Foods
2. प्रत्यर्थी/ The Respondent- ITO, Ward, Dhamtari
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur

5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur