

आयकर अपीलीय अधिकरण
गुवाहाटी पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री मनमोहन दास, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 119/GTY/2024
Assessment Year: 2015-16**

Kamakhya Prasad Tasa <i>(Appellant)</i>	Vs.	Income Tax Office, Jorhat <i>(Respondent)</i>
PAN: AFNPT4686B		

Appearances:

Assessee represented by : Chetan Agrawal, FCA.

Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 09 April, 2025

Date of pronouncing the order : 08 July, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax-NFAC, Delhi [hereinafter referred to as "the Ld. CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2015-16 dated 09.05.2024,



which has been passed against the assessment order u/s 143(3)/263 of the Act, dated 09.09.2021.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“Ld. CIT (A) erred in law as well as on fact in confirming addition of Rs.3865000 being made by Ld. AO on account of cash deposited in bank account out of sales, of which return of income was filed u/s 44 AD of the Act.”

3. Brief facts of the case are that the case of the assessee was completed u/s 143(3) of the Income Tax Act, 1961 on 30.08.2017 at an income of Rs. 7,40,500/-. The case of the assessee was set aside u/s 263 of the Income Tax Act, 1961 on 20.02.2020 by the Pr. Commissioner of Income Tax, Jorhat by making certain observations regarding the deposits in one of the four bank accounts of the assessee. The Ld. AO issued notice u/s 142(1) of the Act and required the assessee to explain the source of cash deposited in the bank account. The assessee uploaded the reply and explained the source as under:

“Since cash to the tune of Rs. 61,04,000/- was deposited in Savings account no. 0241000100194817 with Punjab National Bank Jorhat, certified copy of the Bank Statement of this bank is attached for favour of your kind perusal. That sir, the source of cash deposit of Rs. 61,04,000/- in the above bank account is as follows:

a) Cash in hand as on 01.04.2014 was Rs. 9,56,000/- (Refer Return of Income from Asst. Yr. 14-15)

b) Gift from Relatives as under:

Rs. 5,00,000/- from Dipok Kumar Tasha (Father's brother)

Rs. 5,00,000/- from Dimbeswar Tasa (Father's brother)

Rs. 5,00,000/- from Rekha Bala Tasha (Father's sister)

c) I have ancestral agriculture land in my possession and during the year I had made sales of local agriculture produce from own agriculture land to the tune of Rs.8,65,000/- in cash. So cash generation from sale of own agriculture produce is Rs.8,65,000/-. The expenses for cultivation and labour was incurred in prior year i.e. 2013-14 and hence the entire proceeds of Rs. 8,65,000/- was deposited in bank.



d) I also deal in trading of local agriculture items. During the start of the year, I sold goods worth Rs. 38,65,000/- and the entire sale proceeds were received in cash since the buyers were from rural areas and unorganised sector.”

4. The Ld. AO required the assessee to provide the names of the parties, their addresses and PANs from whom he had made purchases and the details of parties to whom he had sold the paddy. The assessee responded by stating that *“In my reply dated 01.03.2021, I prepared the sales ledger by clubbing the katcha slips having same rate for convenience and ease of understanding only. The party name, PAN, Address to whom sales were made were not maintained by me.”* The Ld. AO did not find the reply acceptable and added a sum of ₹38,65,000/- under section 69A to the income of the assessee. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide order dated 29.05.2023, dismissed the appeal by holding as under:

“5. Findings of the case and decision:- I have carefully considered the facts of the case, finding of the AO in the assessment order, submission of the appellant and material on record. From the facts of the case it is noticed that in this case the assessment order u/s 143(3) of the Act, was finalized on 30.08.2017, at total income of Rs.07,40,500/-. Subsequently, the department noticed that the appellant had deposited huge cash in the beginning of the financial year, which was more than the opening cash balance and cash generated during the period. In view of these facts, the Pr. Commissioner of Income Tax, Jorhat, had set aside the assessment order u/s 263 of the Act, on 20.02.2020, by observing as under:-

“I have gone through the assessment order, assessment orders as well as submission of the A.R. of the assessee. On going through records, it is found that the assessee’s business turnover of whole of the financial year is not related to the cash deposits made to his bank accounts, in the beginning of the financial year 2014-15. It is found from records that out of cash deposits of Rs. 61,04,000/- made to assessee’s bank account at the beginning of the financial year 2014-15, Rs.9,56,000/- was opening cash-in-hand of the assessee and Rs.15,00,000/- was stated as “gift” received from relatives. For balance of Rs.36,48,000/- of cash deposits made in the beginning of the financial year 2014-15 [i.e. Rs. 61,04,000/- minus Rs. 9,56,000/- minus Rs. 15,00,000/-], the assessee could not provide any plausible explanation regarding the source

of the same before the assessing officer, in the assessment proceeding as well as before me in the course of revisionary proceeding of this case.

As the assessee could not explain about the source of cash deposit of Rs. 36,48,000/- made by him in the beginning of the financial year 2014-15, therefore, the assessing officer should have to be added back this amount to assessee's total income of the relevant assessment year 2015-16. Thus, by not adding back of the amount of Rs. 36,48,000/- the source of receipt of which amount was remained as unexplained, in determining the true income of the assessee for the assessment year under consideration, the assessment order is rendered erroneous, had resulted in loss of revenue, thereby making the order prejudicial to the interest of revenue."

5.1 In view of the above observation of the Pr. CIT, Jorhat, the AO had issued the notice u/s 142(1) of the Act, along with detailed questionnaire, on 17.02.2021. Incompliance the assessee had uploaded the reply on 23.02.2021. The relevant part of the same is reproduced here as under:-

Since cash to the tune of Rs. 61,04,000/- was deposited in Savings account no. 0241000100194817 with Punjab National Bank Jorhat, certified copy of the Bank Statement of this bank is attached for favour of your kind perusal. That sir, the source of cash deposit of Rs. 61,04,000/- in the above bank account is as follows:

1. Cash in hand as on 01.04.2014 was Rs. 9,56,000/- (Refer Return of Income from Asst. Yr. 14-15)

2. Gift from Relatives as under:

Rs. 5,00,000/- from Dipok Kumar Tasha (Father's brother)

Rs. 5,00,000/- from Dimbeswar Tasa (Father's brother) Rs.

5,00,000/- from Rekha Bala Tasha (Father's sister)

1. I have ancestral agriculture land in my possession and during the year I had made sales of local agriculture produce from own agriculture land to the tune of Rs. 8,65,000/- in cash. So cash generation from sale of own agriculture produce is Rs. 8,65,000/-. The expenses for cultivation and labour was incurred in prior year i.e. 2013-14 and hence the entire proceeds of Rs. 8,65,000/- was deposited in bank.

2. I also deal in trading of local agriculture items. During the start of the year, I sold goods worth Rs. 38,65,000/- and the entire sale proceeds were received in cash since the buyers were from rural areas and unorganised sector.

2. The assessee vide reply dated 01.03.2021 has further uploaded copy of ledger of own cultivated paddy and traded paddy. In the ledger, the assessee has shown cash sales of Traded Paddy of Rs. 38,65,025/- on different dates.

3. To verify the genuineness of the above transactions of Rs. 38,65,000/-, the Income Tax Department has issued notice u/s 142(1) of the Income Tax Act, 1961 dated 02.03.2021 to the assessee for providing the name of the parties, address and PAN from whom you have purchased and sold the paddy.



4. In response to the above notice, the assessee vide its reply uploaded dated 09.03.2021 has stated that “In my reply dated 01.03.2021, I prepared the sales ledger by clubbing the katcha slips having same rate for convenience and ease of understanding only. The party name, PAN, Address to whom sales were made were not maintained by me.”

5.2 In the absence of credible documents and logical justification, the above contention of the appellant was not accepted by the AO. Accordingly, out of total cash deposit of Rs.61,04,000/-, cash of Rs.38,65,000/-, was held as unexplained and therefore, added to the income of the appellant.

5.3 During the course of appellate proceeding, the appellant could not bring any material evidences on record, along with logical justification, to justify the source of above cash, deposited in the beginning of the F.Y. From the facts of the case it is crystal clear that the appellant had deposited the above cash out of his undisclosed sources, therefore, the AO has rightly added to the income of the appellant. As regard the various case laws cited by the appellant are concerned it is seen that the facts and circumstances of the case under consideration, are distinguishable from the facts and circumstances of the cases relied upon, hence not tenable. **Keeping in mind the facts as stated here in above, in my considered opinion, the AO has rightly taxed the un-disclosed cash of Rs.38,65,000/-, deposited in the beginning of the year, therefore, up-held. All the grounds of the appeal are dismissed.**

6. In the result the appeal is **dismissed.**”

5. We have heard the rival contentions and have also gone through the facts of the case and the paper book filed. In the return of income filed, the assessee had shown income under the heads salary, income from other sources and income from business or profession under section 44AD of the Act. It was submitted before the Ld. AO that the details of purchases of paddy traded were not maintained, but certain katcha slips for sales were maintained by his ‘Mohri’ which were produced before us as well. The Ld. AO accepted the opening balance of cash, the gifts received as well as the cash generated from sale of agricultural produce from the land owned by the assessee, but the explanation regarding paddy purchased and sold was not accepted. The assessee had shown profit at the rate of 8.2% under section 44AD and



was not required to maintain the books of account and other details since it is a presumptive section for estimating the business income yet he had produced part of the self-generated sale vouchers in support of the sale of purchased paddy. Before the Ld. AO the assessee also the assessee had stated that he had made payments to creditors against purchases by issuing cheques and the details are mentioned at page 13 of the paper book filed and are from 12th April 2014 to 7th July 2014 for amount of ₹21,86,000/- for 17 transactions to various persons. Besides these purchases by cheques, the assessee had also purchased the 'Dhaan' from many number of local farmers of nearby area in cash to the tune of ₹ 12,65,000/- which was sold in cash. Though he was not required to maintain the vouchers for the purchases since the income was shown under section 44AD of the Act, however, the Ld. AO could have rejected the submission of the assessee if he had evidence that payments for purchases as claimed were not made by cheques after examining the details from the bank. It is also not mentioned in the assessment order the period over which the cash was deposited. The assessee claims that the purchases were made on credits for which payments were made by cheque, but no enquiry in this regard has been carried out by the Ld. AO and even the Ld. CIT(A) has not considered the reply filed. Further, once the assessee had shown Gross Receipts/Turnover of Rs.38,65,000/- on which net profit of 8.52% at ₹3,29,500/- was declared, without giving any adverse finding on the same and without excluding the turnover shown and recasting the profit and loss account, the same amount could not have been added under section 69A for cash deposited in the bank account. Hence, considering the totality of facts and the failure of the Ld. AO to bring any further evidence to counter the submissions of the assessee by conducting any



enquiry or to rebut the contentions of the assessee, the addition of ₹ 38,65,000/- made under section 69A of the Act was not warranted, which has been confirmed by the Ld. CIT(A). Hence, the ground of appeal is allowed and the finding of the Ld. CIT(A) in this regard are reversed. The Ld. AO is directed to delete the addition of ₹38,65,000/-.

6. In the result, the appeal of the assessee is allowed.

Order pronounced on 08th July, 2025 under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

[Manomohan Das]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 08.07.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Kamakhya Prasad Tasa, Hatigarh T.E., JEC, Jorhat, Assam, 785007.**
2. **Income Tax Office, Jorhat.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata