

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

**ITA No.736/Ind/2024**  
**Assessment Year:2016-17**

Manish Kumar Agrawal, Mandi Prangan, Station Road, Neemuch (Assessee/Appellant)	<b><u>बनाम/</u></b> Vs.	Assessment Unit Income Tax Department (Revenue/Respondent)
<b>PAN: AIAPA9698Q</b>		
Assessee by	Shri Harsh Vijaywargiya, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.07.2025	
Date of Pronouncement	16.07.2025	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first appeal dated 10.09.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 15.05.2023 passed by learned Assessment Unit of Income-tax Department ["AO"] u/s 147 read with section 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2016-17, the assessee has filed this appeal on following grounds:

*"1.That on the facts and in the circumstances of the case Ld. AO and Ld. CIT(A) has erred in making arbitrary addition of Rs. 1,10,79,640*

*being cash deposits made in bank account as unexplained cash credit U/s 68 of Income Tax Act, 1961.*

*2. That on the facts and in the circumstances of the case Ld. CIT(A) while passing the impugned order arbitrarily chose to ignore the written submissions and all the documentary evidences produced by the appellant during the course of first appellate proceedings and passed the impugned order in a casual and arbitrary manner and against the jurisdictional judicial pronouncements.*

*3. That on the facts and in the circumstances of the case impugned orders so passed is illegal & wrong.*

*4. That the appellant craves leave to add, amend, alter or delete any of the grounds of appeal and all the above grounds are mutually exclusive."*

2. The background facts leading to present appeal are such that the AO, on the basis of information available in AIR, came to know that the assessee had made a total cash deposit of Rs. 1,10,79,638/- in bank a/c during the previous year 2015-16 relevant to AY 2016-17 under consideration. Accordingly, the AO issued notice dated 30.06.2022 u/s 148 after complying with the procedure of section 148A(d). The assessee filed return of income in response to such notice on 03.05.2023 declaring a total income of Rs. 2,17,380/-. During proceeding, the AO asked the assessee to explain source of impugned deposits. The assessee filed reply but the AO was not satisfied. Ultimately, the AO made addition of Rs. 1,10,79,638/- as unexplained income and completed assessment. Aggrieved, the assessee carried matter in first appeal but did not get any success. Now, the assessee has come in next appeal before us.

3. We have heard learned Representatives of both sides and carefully perused the orders of lower-authorities as well as the documents filed in Paper-Book to which our attention has been drawn.

4. Ld. AR for assessee has pointed out two vital mistakes in the order of CIT(A) as under:

(i) The assessee raised following Ground No. 6 before CIT(A) which is a legal ground but the CIT(A) has not adjudicated the same in the impugned order:

*"6. That having regard to the facts and circumstances of the case, Ld. AO has erred in law and on facts in passing the impugned reassessment order u/s 147 r.w.s. 144B without first issuing Draft Assessment Order which is bad in law in view of provisions as envisaged in section 144B of Income Tax Act, 1961."*

(ii) The assessee filed a Written-Submission accompanied by Annexure-1 and Annexure-2 on 26.03.2024 (the acknowledgement of e-filing is placed at Pages 4-5 of Paper-Book and the copy of submission made by assessee to CIT(A) is filed at Pages 6 to 50 of Paper-Book). Further, the assessee filed another submission to CIT(A) on 08.04.2024 containing order dated 20.03.2024 of ITAT, Indore in Vishal Balwani Vs. ITO-3(1), Indore, ITA No. 478/Ind/2023. He submitted that in Para No. 4 of impugned order, the CIT(A) has though noted *"all the written submission filed by the appellant have been carefully perused and taken into consideration"* but thereafter in subsequent Para 5, the

CIT(A) has merely approved AO's order and not adjudicated upon the assessee's vehement submissions.

5. Since the Ld. AR for assessee has pointed out abovenoted vital infirmities in the adjudication of CIT(A) and the Ld. DR is not against such submission of Ld. AR, we are inclined to the restore this matter at the level of CIT(A) for adjudication afresh. Needless to mention that the CIT(A) shall give fresh opportunities to assessee and consider assessee's entire submission including the submissions already made and pass a vehement order in accordance with section 250(6) of the Act. The assessee shall also participate in the hearings as may be fixed by CIT(A) and place entire material for CIT(A)'s consideration.

6. Since we have restored this matter at the level of CIT(A) for a fresh adjudication, other pleadings made by learned Representatives on merit of the case are not required to be narrated/adjudicated.

**7. Resultantly, this appeal is allowed for statistical purpose.**

Order pronounced in open court on 16/07/2025
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Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 16/07/2025

Patel/Sr. PS

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

By order  
Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore