

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.434/Ind/2023 (AY: 2011-12)

Deepak Verma, G-2/119A Gulmohar Colony, Bhopal (PAN: AIIPV9586C)	बनाम/ Vs.	ITO-1(1), Bhopal
(Appellant)		(Respondent)
Assessee by	Shri Gagan Tiwari, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	17.07.2025	
Date of Pronouncement	22.07.2025	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the “**Act**” for sake of **breivty**) before this Tribunal. The assessee is aggrieved by the order bearing Number ITBA/NFAC/S/250/2023-24/1055775894(1) dated 06.09.2023 passed by the Ld. CIT(A) which is hereinafter referred to as the “**Impugned order**”. The relevant

Assessment Year is 2011-12 and the corresponding previous year period is from 01.04.2010 to 31.03.2011.

2. **FACTUAL MATRIX**

2.1 That as and by way of an assessment order **u/s. 143(3) of the Act** the total income of the assessee was computed and assessed at **Rs.3,48,87,310/-**. That the aforesaid assessment order is dated 19.03.2024 which is hereinafter referred to as the **“impugned assessment order”**.

2.2 That the assessee being aggrieved by the **“impugned assessment order”** prefers first appeal **u/s 246A of the Act** before the Ld. CIT(A) who by the **“impugned order”** has dismissed the appeal of the assessee on the grounds and reasons stated therein.

2.3 That the assessee being aggrieved by the **“impugned order”** has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal in Form No.36 **against** the **“impugned order”** which are as under:-

“1. That on the facts and the circumstances of the case and in law the Ld CIT (A) erred in law and not justified in sustaining the addition of Rs. 30919600 for the cash deposits made in Dena Bank Saving banks account. The assessee submits that the said bank deposits are fully explained deposits and therefore the addition of Rs. 30919600 is unlawful and unjustified and therefore be deleted.

2 That on the facts and the circumstances of the case and in law the Ld CIT (A) erred in law and not justified in sustaining the addition of Rs. 776000 for the cash deposits made in Punjab National Bank Saving banks account Katra Bazar Branch Sagar. The assessee submits that the said bank deposits are fully explained deposits and therefore the addition of Rs. 776000 is unlawful and unjustified and therefore be deleted.

3 That on the facts and the circumstances of the case and in law the Ld CIT (A) erred in law and not justified in sustaining the addition of Rs. 2203600 for the cash deposits made in Punjab National Bank Saving banks account Katra Bazar Branch Sagar. The assessee submits that the said bank deposits are fully explained deposits and therefore the addition of Rs. 2203600 is unlawful and unjustified and therefore be deleted.

4 That on the facts and the circumstances of the case and in law the Ld CIT (A) erred in law and not justified in sustaining the addition of Rs. 48902 for the Cheque deposits made in Dena Bank Saving banks account. The assessee submits that the said cheque deposits in bank is fully explained deposits and therefore the addition of Rs. 48902 is unlawful and unjustified and therefore be deleted.

5 That on the facts and the circumstances of the case and in law the Ld CIT (A) erred in law and not justified in sustaining the addition of Rs. 6739 for the Cheque deposits made in Punjab National Bank Saving banks account Katra Bazar Branch Sagar. The assessee submits that the said cheque deposit in bank is fully explained deposits and therefore the addition of Rs. 6739 is unlawful and unjustified and therefore be deleted".

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 17.07.2025 when the Ld. AR for and on behalf of the assessee after narrating brief facts of the case finally submitted before us that an application under Rule 29 of the Appellate Tribunal Rules, 1963 for production of additional evidence before this

Tribunal is placed on record. These evidences at the original stage and at the first appellate stage were not produced or rather could not be produced in support of the contention of the assessee. Under these circumstances since these additional evidence are crucial to determine correct assessable income exigible to tax ends of justice require that same be considered by lower authority in order to meet ends of justice and finally concluded by stating that **"impugned order"** be set aside and remanded back to the lower authority. The Ld. DR appearing for Revenue stated that he has no objection if these additional evidences which are now placed be examined and verified by the Ld. CIT(A) as on earlier occasions while passing the **"impugned order"** he had no access to the same and consequently could not give any finding on it.

4. Observations, findings & conclusions.

4.1 We now have to decide the legality, validity and the propriety of the **"impugned order"** basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case as presented to this Tribunal by both Ld. AR & Ld. DR to determine

the legality, validity of the **"impugned order"** basis law and by following due process .

4.3 We basis records of the case and after hearing and further upon examining the contentions now canvassed before us are of the considered view that in view of the application of the assessee u/s 29 of the Appellate Tribunal Rules, 1963 it would be just fair and convenient that these additional evidence be looked into by Ld. CIT(A) as he too exercises all the power which are in co-existence with the power of the Ld. A.O who does original adjudication. While it is true that nothing prevents this Tribunal also to look at these additional evidence even at second appellate stage but since both the Ld. AR as well as Ld. DR have expressed that it would be in fitness of things that issue be remanded back to the Ld. CIT(A) we deem fir to set aside the **"impugned order"** and remand the case back to Ld. CIT(A) on *denovo basis*. Accordingly we direct the Ld. CIT(A) to examine and verify these additional evidence in a manner known to law. The assessee is simultaneously directed to place on record on the file of Ld. CIT(A) these very additional evidences now placed before us in terms of Rule 29 of the Appellate Tribunal Rules, 1963. In the

circumstances we expect Ld. CIT(A) to take into consideration the entire gamut of case coupled with all evidence, material, information on record and after giving full and complete opportunity to pass a speaking order which should be on merits and a reasoned one.

5. Order

5.1 In the premises drawn up by this Tribunal as aforesaid we set aside the “**impugned order**” as and by way of remand to Ld. CIT(A) on *denovo basis*.

5.2 In the result appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 22.07.2025.

Sd/-

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 22/07/2025

Dev/Sr. PS

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

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore