

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH 'SMC': DEHRADUN**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.115/DDN/2024, A.Y. 2013-14

ITA No.117/DDN/2024, A.Y. 2015-16

Nidhi Yadav, B-801, Forest Residency, Dehradun, Uttarakhand PIN Code: 248014 PAN: ACAPY5157E	Vs.	Income Tax Officer, Ward 2(1)(4), Income Tax Office, Rudrapur, Uttarakhand
		(Respondent)

Appellant by	Sh. Mohit Dev, CA
Respondent by	Sh. Amarpal Singh, Sr. DR

Date of Hearing	06/05/2025
Date of Pronouncement	31/07/2025

ORDER

PER AVDHESH KUMAR MISHRA, AM

Common facts and similar grounds arise in the above captioned appeals of the assessee; therefore, these appeals were heard together and are being disposed off by this common order.

2. These appeals for Assessment Years ('AYs') 2013-14 and 2015-16 filed by the assessee are directed against orders dated 07.05.2024 of the Commissioner of Income Tax (Appeals), NFAC, New Delhi ['CIT(A)'].

3. Grounds raised in both appeals are almost similar challenging the validity of the reopening of the assessments and additions as under: -

“A. That section 69A is not applicable on the appellant as the appellant is in receipt of the source of credit entries as appearing in the bank accounts of the appellant.

B. That reopening of assessment by issuing notice under section 148 of the Act based on investigation wing report is bad in law.”

4. The relevant facts giving rise to these appeals are that the appellant assessee, a civil servant of Uttarakhand, filed her original Income Tax Returns (ITRs) declaring income of Rs.6,92,034/- and Rs.11,16,146/- for Assessment Years (AYs) 2013-14 and 2015-16, respectively. The said ITRs were duly processed under section 143(1) of the Income Tax Act, 1961 (‘Act’). Later on, the Assessing officer (‘AO’), on the basis of information that the source of credits/deposits in two bank accounts of the assessee, prima-facie, was not explained as such credits/deposits, in aggregate, were more than the income disclosed in respective ITRs, reopened these cases. The assessee has maintained two bank accounts; i.e. one bank Account No. 1074010105062236 in the Punjab National Bank at Haridwar, Uttarakhand and the second bank Account No. 11272281273 in the State Bank of India at Rudrapur, Uttarakhand (more than 200 KM apart). In response to notices under section 148 of the Act, the assessee filed her ITRs declaring the incomes what were declared in the original ITRs.

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4.1 The deposits in both bank accounts exceed the income disclosed in the ITR by Rs.5,63,200/-. Therefore, the AO show-caused the assessee to

explain the source and genuineness of credits/deposits aggregating to Rs.5,63,200/- in bank accounts; however, the assessee did not ensure any compliance during the assessment proceedings. Therefore, the AO completed the assessment by taxing the credits/deposits aggregating to Rs.5,63,200/- in bank accounts under section 69A of the Act as under:

“5.1 The assessee is maintained two bank accounts, viz. bank account no. 11272281273 with SBI & 1074010105062236 with PNB. It is gathered from the bank accounts of the assessee maintained with SBI and PNB that the total credits in these two bank accounts are at Rs. 12,55,235/-. Whereas, the assessee has declared gross total income in the ROI for the year under consideration at Rs.6,92,034/-. There is extra credit of Rs.5,63,200/- found in the bank accounts of the assessee, during the F.Y. under consideration. During the course of the assessment proceeding, the assessee was asked to furnish the source of the extra credit amounting to Rs.5,63,200/- and furnish the documentary evidences/ proof in this regard. However, the assessee is failed to furnish any detail in this regard and failed to explain the source of the amount credited in her bank account during the F.Y. under consideration. The assessee is failed to furnish the source of the amount credited in her bank account and furnish documents/ proof/ evidences in respect of amount credited in her bank account ever after availing several opportunities by her. Therefore, it is safely concluded that the assessee has nothing to say in this regard.

5.2 In view of the above discussion, the amount of Rs. 5,63,200/- found credited extra in her bank account is taken as unexplained income and added u/s 69A of the Income Tax Act, 1961 to the total income of the F.Y. under consideration and charged the tax as per the provision of the Income Tax Act, 1961. Penalty proceedings u/s. 271(1)(c) of the I.T. Act, 1961 is initiated separately for concealment of particulars of income.”

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4.2 The deposits in both bank accounts exceed the income disclosed in the ITR by Rs.4,58,193/-. Further, the AO also had information that the

assessee had made an investment of Rs.7,94,277/- in immovable property vide registered deed dated 17.04.2014. Therefore, the AO show-caused the assessee to explain the source and genuineness of credits/deposits aggregating to Rs.4,58,193/- in bank accounts and the investment of Rs.7,94,277/- in immovable property; however, the assessee did not ensure any compliance during the assessment proceedings. Therefore, the AO completed the assessment by taxing the credits/deposits aggregating to Rs.4,58,193/- in bank accounts and the investment of Rs.7,94,277/- in immovable property under section 69A and 69 of the Act respectively as under: -

“5.1 The assessee is maintained two bank accounts, viz. bank account no 11272281273 with SBI & 1074010105062236 with PNB. It is gathered from the bank accounts of the assessee maintained with SBI and PNB that the total credits in these two bank accounts are at Rs. 5,74,339/-. Whereas, the assessee has declared total income in the ROI for the year under consideration at Rs.11,16,146/-. There is extra credit of Rs.4,58,193/- found in the bank accounts of the assessee, during the F.Y. under consideration. During the course of the assessment proceeding, the assessee was asked to furnish the source of the extra credit, amounting to Rs.4,58,193/- and furnish the documentary evidences/ proof in this regard. However, the assessee is failed to furnish any detail in this regard and failed to explain the source of the amount credited in her bank account during the F.Y. under consideration. The assessee is failed to furnish the source of the amount credited in her bank account and furnish documents/ proof/ evidences in respect of amount credited in her bank account ever after availing several opportunities by her. Therefore, it is safely concluded that the assessee has nothing to say in this regard.

5.2 In view of the above discussion, the amount of Rs. 4,58,193/- found credited extra in her bank account is taken as unexplained income and added u/s 69A of the Income Tax Act, 1961 to the total income of the F.Y.

under consideration and charged for tax u/s 115BBE of the Act. Penalty proceedings u/s. 271(1)(c) of the LT. Act, 1961 is initiated separately for concealment of particulars of income.

6. The assessee has made transaction in immovable property vide registration deed dated 17.04.2014, amounting of Rs.7,94,277/-. During the course of the assessment proceeding, the assessee was asked to furnish the source of the transaction made in the immovable, amounting of Rs.7,94.277/- and furnish the documentary evidences/ proof in this regard. However, the assessee is failed to furnish any detail in this regard and failed to explain the source of the transaction made in the immovable property during the F.Y. under consideration. The assessee is failed to furnish the source of the transaction made in the immovable property and furnish documents/ proof/ evidences in respect of transaction of the property, ever after availing several opportunities by her. Therefore, it is safely concluded that the assessee has nothing to say in this regard.

6.1 In view of the above discussion, the amount of Rs.7,94,277/- transacted in the immovable property is taken as unexplained investment and added u/s 69 of the Income Tax Act, 1961 to the total income of the F.Y. under consideration and charged for tax u/s 115BBE of the Act. Penalty proceedings u/s. 271(1)(c) of the I.T. Act, 1961 is initiated separately for concealment of particulars of income.”

4.3 Aggrieved with both assessment orders, the assessee filed appeals before the Ld. CIT(A), who dismissed both appeals on the reasoning that the assessee did not pursue these appeals properly and did not controvert the finding of the AO.

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5. Before us, the Ld. Authorized Representative ('AR') submitted that the non-compliance before the AO and the Ld. CIT(A) due to non-availability of bank account details, election duty and ill health of the assessee. The Ld. AR drew out attention to various Annexure filed along with the Appeal

Memos (Form-36) to explain the sources of credits/deposits in the said bank accounts and the investment in immovable property as mentioned above. He argued the cases vehemently and prayed for reliefs on both grounds. In the ITA No. 115/DDN/2024; AY 2013-14, the Ld. AR contended that the deposits of Rs.2,00,000/- on 12.06.2012 and Rs.1,00,000/- on 02.03.2013 in the PNB account at Haridwar were sourced from withdrawals from the SBI bank, Rudrapur. To support the said contention, the Ld. AR filed the copies of the relevant bank accounts, which showed cash withdrawals on 12.06.2012 and 02.03.2013 from the SBI, Rudrapur. Further, it was submitted that the deposits in the SBI bank account, Rudrapur on various dates were sourced out of gifts received from brothers of the assessee on the occasion of Raksha Bandhan and other festivals. The cash deposit of Rs.49,5000/- on 13.06.2012 was admitted repayment of loan in cash from Mr. D P Yadav. Admittedly, no compliance on this score was made before the Authorities below. As far as the deposits aggregating to Rs.97,000/- in three tranches on 16.08.2012, 04.02.2013 and 05.02.2013 (i.e. Rs.25,000/- , Rs.50,000/- and Rs.22,000/-) is concerned, it was submitted that these cash deposits were made by Shri Digambar Singh Rawat, LIC Agent, to keep the insurance policy of the appellant alive. Further, it was contended that the sum of Rs.97,000/- was later on returned back in the subsequent Financial Year 2013-14 to Shri Digamber Singh Rawat. In support of the said argument, the confirmation from Shri Digamber Singh Rawat was furnished.

6. Similar contentions/submissions/details were filed for the ITA No. 117/DDN/2024; AY 2015-16. The details thereof are not being discussed here.

7. On the other hand, the Ld. Senior Departmental Representative ('Sr. DR'), placing reliance on orders of the Authorities below, prayed for dismissal of both appeals. With the help of facts mentioned in orders of the Authorities below, the Ld. Sr. DR submitted that sufficient opportunities of being heard were provided to the appellant assessee by the AO and the Ld. CIT(A) but in vain. He submitted that the appellant assessee tactfully ensured noncompliance to avoid proper investigations. Further, he contended that the evidence submitted before us in the form of Annexure filed along with both Appeal Memos (Form-36) need further investigation/enquiry as the veracity of the submissions of the assessee was not examined by the Authorities below.

8. We have heard both parties and have perused the material available on the record. We take note of the fact that the Ld. CIT(A) has dismissed the appeal ex-parte due to non-prosecution and has not adjudicated the case on merits. Moreover, the Ld. CIT(A) has not decided each ground of appeal after discussing issues in detail and his reasons for agreeing with the assessment order though he, as per provisions of section 250(6) of the Act, is obliged to dispose of the appeal in writing with well-reasoned order on each point of determination arisen for his consideration. It is evident from the perusal of

section 251(1)(a), 251(1)(b) and Explanation of section 251(2) of the Act that the CIT(A) is required to apply his/her mind to all the issues which arise from the impugned order before him/her, whether or not these issues have been raised by the assessee before him/her.

9. Section 251(1)(a) of the Act provides that while disposing of an appeal against assessment order, the Ld. CIT(A) shall have the power to confirm, reduce, enhance or annul the assessment. Similarly, the section 251(1)(b) of the Act provides that in disposing of an appeal against an order imposing a penalty, the Ld. CIT(A) may confirm or cancel such orders or vary it so as to either to enhance or to reduce the penalty. On cumulative consideration of the provisions of section 250(6) of the Act read with sections 250(4), 250(5), 251(1)(a), 251(1)(b) of the Act and Explanation of section 251(2) of the Act, it is concluded that the Ld. CIT(A) is not empowered to dismiss the appeal for non-prosecution of appeal and is obliged to dispose of the appeal on merits. In this regard, the finding of the coordinate bench in the case of MARC Laboratories Ltd. in ITA No.2731, 2732, 2733, 2730, 2734 & 2735/DEL/2022 is worth extracting as under:

“5. We straightway refer to Section 250(6) of the Act which enjoins that the CIT(A) shall state the points for determination before it and the decision shall be rendered on such points along with reasons for the decision. Thus, it is incumbent upon the CIT(A) to deal with the grounds on merits even in ex parte order. In view of Section 250(6) of the Act, the CIT(A) has no power to dismiss an appeal on account of non-prosecution. This view is also taken by the Hon'ble Bombay High Court in case of CIT vs. Premkumar Arjundas Luthra HUF, (2017) 291 CTR 614 (Bom.). A bare glance of the order of the

CIT(A) shows that CIT(A) has not addressed itself on various points placed for its determination at all and dismissed the appeal of assessee for default in non-appearance. Needless to say, the CIT(A) plays role of both adjudicating authority as well as appellate authority. Thus, the CIT(A) could not have shunned the appeal for non-compliance without addressing the issue on merits.

6. In the totality of the circumstances, we consider it just and expedient to restore the matter back to the CIT(A) in the larger interest of justice with a view to enable the assessee to avail proper opportunity for disposal of appeal by the CIT(A) on various points. The assessee is cautioned to extend full co-operation to the CIT(A) without any demur, failing which, the CIT(A) shall be at liberty to conclude the appellate proceedings in accordance with law. Hence, the order of the CIT(A) appealed against, is set aside and all the issues raised in the impugned appeal are restored back to the file of the CIT(A) for fresh adjudication in accordance with law after giving reasonable opportunity of hearing to the assessee.”

10. In view of the facts of the case in entirety, we find merit in the contention of the Ld. Sr. DR that evidence submitted before us in the form of Annexure filed along with both Appeal Memos (Form-36) need further investigation/enquiry as the veracity of the submissions and evidence of the assessee was not examined by the Authorities below particularly in view of the fact that both bank accounts, i.e. SBI, Rudrapur and PNB, Haridwar is situated more than 200 Km apart, which cannot be covered within the span of 3-4 hours to make deposit in one bank account after withdrawals from another bank account. Further, repayment of loan in cash and cash deposits in the assessee's bank account by the third person need further investigation/enquiry as the veracity of the submissions.

11. In view the above, without offering any comment on merit of the case, we deem it fit to set aside the impugned order and remit the matter back to the file of the Ld. CIT(A) for deciding the case afresh, in accordance with law, after providing adequate opportunity of being heard to the appellant assessee. Ordered accordingly. The appellant assessee, no doubt, shall cooperate in remitted Appellate proceedings.

12. In the result, the assessee's appeal is allowed for statistical purposes.

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13. The above finding in the ITA No. 115/DDN/2024; AY 2013-14 shall apply mutatis mutandis in this appeal also.

14. In the result, this appeal of the assessee is also allowed for statistical purposes.

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15. In the result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced in open Court on 31st July, 2025.

Sd/-

**(C. N. PRASAD)
JUDICIAL MEMBER**

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated: 31/07/2025

Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT/CIT
4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR

ITAT, NEW DELHI