

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**I.T.A. No. 380/Asr/2024  
Assessment Year: 2018-19**

Sh. Yash Paul Malhotra, Near Kali Mata Mandir, Industrial Area, Jalandhar. [PAN:-AARPM2969D] <b>(Appellant)</b>	Vs.	DCIT, Circle-1, Jalandhar.  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. Surinder Mahajan, CA
<b>Respondent by</b>	Sh. Charan Dass, Sr. DR

<b>Date of Hearing</b>	27.05.2025
<b>Date of Pronouncement</b>	13.08.2025

**ORDER**

**Per: Udayan Dasgupta, J.M.:**

This appeal is filed by assessee against order of Ld. CIT (A), NFAC, Delhi, passed u/s 250 of the Income Tax Act 1961, dated 03.06.2024 which has arisen from the order of the AO NEAC, Delhi, passed u/s 143(3) of the Act dated 22.04.2021.

2. The grounds of appeal raised in Form No. 36 are as under:

*“1. That on the facts & circumstances of the case, Learned CIT(Appeals), NFAC, Delhi has grossly erred in law in*

*confirming initiation of proceedings u/s 148 of the Act on the basis of information received during warrant of authorization u/s 132A of the Act issued by Pr. DIT (Inv), Jaipur in the case of Sh. Parveen Sharma as against required to be initiated under the provisions of section 153C of the Act. Proceedings initiated u/s 148 of the Act are illegal and bad in law.*

2. *That on the facts & circumstances of the case, Learned CIT(Appeals), NFAC, Delhi has grossly erred in confirming addition of Rs. 2,00,000/- u/s 69A of the Act in respect of amount advanced to Sh. Parveen Kumar Sharma which stood recorded in books of accounts and duly reflected in the balance sheet of the firm. Addition confirmed is illegal and bad in law.*

3. *That on the facts & circumstances of the case, Learned CIT(Appeals), NFAC, Delhi has grossly erred in confirming addition of Rs. 2,00,000/= u/s 69A of the Act made by the Assessing Officer with the observation that entry of Rs. 2,00,000/- in the books of accounts of the assessee is after thought to cover up the issue. Observation made by the Assessing Officer is without any material on records.*

4. *That on facts and circumstances of the case, order passed by the Learned Commissioner of Income Tax (Appeals) [‘CIT(A)’], is illegal and bad in law and has been passed without considering the submissions of the assessee.*

5. *That the Appellant requests for leave to add or amend the grounds of appeal before the appeal is heard or disposed off.”*

3. Brief facts emerging from the records are that the assessee is the proprietor of *M/s Malhotra Hardware Store* and is engaged in the business of purchase and sale of hardware goods. The return of income has been filed by the assessee on 30.10.2018 disclosing a total income of *Rs.59.83 lakhs* alongwith copies of audited accounts and TAR and the said return was selected for compulsory scrutiny.

3.1 Inquiry proceedings were conducted by the *Principal Director of Income Tax (Inv), Jaipur* in the case of one *Mr. Parveen Kumar Sharma (S/o Sh. Piyare Lal Sharma)* at Jalandhar, from whom cash amounting to *Rs.12,25,000/-* has been apprehended by the Station House Officer, GRP, Thane, Ajmer.

On inquiry it has been stated by the said *Mr. Parveen Kumar Sharma* that he is a commission agent of the assessee *M/s Malhotra Hardware Store*, and out of the total amount of *Rs.12.25 lakhs*, an amount of *Rs.2 (two) lakhs* belongs to the assessee.

3.2 On the basis of such information received from the ITO Ward 1(3) Jalandhar, in connection with the warrant of authorisation u/s 132A issued by the Principal Director of Income Tax (Inv) regarding *Mr. Parveen Kumar Sharma*, scrutiny proceedings were initiated against this assessee and notices u/s 143(2) followed by notice u/s 142(1) of the Act were issued and served.

3.3 During the course of assessment proceedings it has been submitted that the said *Mr. Parveen Kumar Sharma* is working as a commission agent for the assessee

since long and an amount of *Rs.2 lakhs* has been handed over to said person for the purpose of settling disputes in relation to various customers in the area of *Ajmer, Barmer, Bikaner, Bhiwara, Chomu. Jaipur, Jodhpur, Kota, Udaipur etc.* It was further stated that this advance of *Rs.2 lakhs* was given out of business funds of the assessee and the same is duly entered in the regular books of account and in support of such submission copies of audited balance sheet, copy of print out of entire cash book for the period of *13 April 2017 to 18 April 2017* were submitted to the AO. It was also stated that copy of ledger a/c of *Mr. Parveen Kumar Sharma* in the books of the assessee were also submitted where the entry of the cash handed over to the said person is duly entered and recorded in the books of accounts on the *15<sup>th</sup> April 2017*.

3.4 Apart from above, the entire cash book summary for the period 01.04.2017 to 31.03.2018 has also been submitted as documentary evidences.

3.5 However, on the face of such documentary evidences furnished by the assessee, the AO arrived at a conclusion that the entries of *Rs.2 lakhs* shown in the books of accounts is not reliable and the same is just an after thought because the audited balance sheet reflected the same as advance (imprest a/c) and the same has been treated as unexplained money and deemed income of the assessee which has

resulted in addition u/s 69A, and has been charged to tax under the provisions of section 115BBE of the Act.

4. The matter was carried in appeal before the first appellate authority, and the ld. CIT(A) dismissed the appeal by observing as follows:

*“The appellant during the course of the appellate proceedings submitted its submission and the same has been carefully considered. The appellant in order to substantiate the said transactions submitted various details and documents including copy of the balance sheet, cash book copy. The appellant also further contended that the amount was given to him for settling the dispute of poor quality with various customers.*

*The appellant failed to provide justification over the fact that who the parties were, their details and other relevant facts. Further to the above, it is pertinent to note that the appellant has stated that Sh. Praveen Kumar Sharma was a commission agent working for the appellant. The appellant could not establish the same by providing the copy of the ledger of the Sh. Praveen Kumar Sharma. If the appellant had been working with the said party, then the fact that some amount of commission would have been paid to the appellant during the said year and earlier years. The appellant could not furnish the copy of the bank statement to establish that commission amount was paid to him. Nor could he furnish the TDS certificate to substantiate the said commission paid to Praveen Kumar Sharma.*

*Further to the same, the appellant could not provide various other details as contented by the AO during the assessment proceedings like details of the said parties i.e. name, address, PAN etc. to substantiate the claim that the appellant has given Rs. 2,00,000/- to Sh. Praveen Kumar Sharma to settle the claims from Ajmer, Barmer, Bhiwara, Bikaner, Chomu, Jaipur, Jodhpur, Kota, Udaipur etc. Furthermore, the appellant also failed to submit the copy or any other documents from which it could be concluded that the said parties has grievances from appellant and to settle the said grievance/settle the claim, the appellant has given Rs. 2,00,000/- to Sh. Praveen Kumar Sharma. The appellant has also not submitted whether he has settled the claim with the parties during the year or it is settled in subsequent year, either during the assessment stage nor during the appellate proceedings. Hence, considering the submission made and after taking into account the entire conspectus of this case, I see no reason to interfere from the findings of the assessing officer. Hence, this ground of appeal is Dismissed.”*

5. Now, the matter is in appeal before the Tribunal on the grounds contained in the memorandum of appeal.

6. The ld. AR of the assessee submitted that the addition made u/s 69A of the Act is uncalled for since the amount is duly reflected in the books of account and the provisions of section 69A of the Act will not be attracted in this case, because the

transaction is already recorded in the regular books. He has filed a paper book alongwith copies of audited balance sheet, copy of cash book for the period *13 April 2017 to 18 April 2017* copy of ledger account of *Mr. Parveen Kumar Sharma* in the books of account of the assessee, daily summary of cash book for the entire financial year and the details of reply filed before the AO.

6.1 He further submitted that only issue in this case as per the statement of *Mr. Parveen Kumar Sharma* is to verify the source of Rs.2 lakhs as claim by Mr. Parveen Kumar Sharma to have been received from Mr. Yash Pal Malhotra, (the assessee). However, the claim of Mr. Parveen Kumar Sharma stood proved since the assessee has already admitted to have made the advance payment of *Rs.2 lakhs* to Mr. Sharma and in support of the same he has already provided the copy of the audited balance sheet where the name of the Mr. Parveen Kumar Sharma, is clearly reflected in the balance sheet. He further filed copies of cash book as per which the entry of Rs.2 lakhs being paid to Mr. Parveen Kumar Sharma is duly reflected in the books of account. So, there is no dispute that the amount of Rs.2 lakhs is already paid by assessee to Mr. Parveen Kumar Sharma who is a commission agent of the assessee and the source of such payments are also recorded in the regular books of account and that is the reason why the said amount is reflected as assets in the balance sheet.

As such, the ld. AR submits that the facts and circumstances in the instant case, the assessee has simply forwarded an advance payment to his commission agent to take care of certain dispute in the market and the source is already there in the books of account.

6.2 As such, under the circumstances, he submits that there is nothing wrong in the books of account nor in the audited balance sheet filed and no adverse findings are also pointed out by the AO, in course of proceedings. The ld. AR states that the addition made by the AO u/s 69A of the Act does not apply in this case and on merits itself the addition should be deleted. The copy of the relevant page of the cash book recording the payment of Rs.2 lakhs is made a part of this order.

6.3 The copy of the ledger A/c of the commission agent in the books of the assessee is also enclosed.

6.4 The copy of the audited balance sheet as on 31.03.2018, is also enclosed, where the amount of Rs.2 lakhs handed over to the agent Mr. Parveen Kumar Sharma ( Imprest A/c) 2,00,000/- is duly reflected in the assets under head loans & advances.

GSTIN: 83AARPM298012K

**MALHOTRA HARDWARE STORES**  
INDUSTRIAL AREA, NEAR KALI MATA MANDIR, JALANDHAR  
Cash Book for the Month of April 2017

Page No. 4

Head of AC	Station	Description	Receipts	Payments
<b>Date : 13-04-2017 (CON.)</b>		<b>Total B/F</b>	2,73,005.00	7,974.00
CARTAGE PAID R.K.STEELS N.S. INDUSTRIES	JALANDHAR KHILDA	NO.66 To CASH CARTAGE PAID By CASH RECD By CASH RECD	10,000.00 10,000.00	240.00
		<b>Total Balance CF</b>	2,50,000.00	8,164.00
		<b>Grand Totals</b>	2,50,000.00	2,84,845.00
<b>Date : 14-Apr-2017</b>		<b>Balance B/F</b>	2,84,845.00	
POSTAGE EXP FREIGHT INWARD A/C		To CASH COURIER CHARGES To CASH FREIGHT PAID AGAINST B-NO 1 LDH GR NO 11 2667		11.00 400.00
FREIGHT INWARD A/C		To CASH FREIGHT PAID AGAINST B-NO 4716 LDH GR N O, 117058		585.00
FREIGHT INWARD A/C		To CASH FREIGHT PAID AGAINST B-NO 23 LDH GR NO 1 17083		523.00
CARTAGE PAID POSTAGE EXP R.K.STEELS	JALANDHAR	To CASH CARTAGE PAID To CASH COURIER CHARGES By CASH RECD	60,000.00	100.00 15.00
		<b>Total Balance CF</b>	2,94,845.00	2,000.00
		<b>Grand Totals</b>	2,94,845.00	2,94,845.00
<b>Date : 15-Apr-2017</b>		<b>Balance B/F</b>	2,92,795.00	
POSTAGE EXP FREIGHT INWARD A/C		To CASH COURIER CHARGES To CASH FREIGHT PAID AGAINST B-NO 3983 LDH GR N O 116887		255.00 385.00
STAFF WELFARE A/C ENTERTAINMENT EXPENSES		To CASH TEA BILL PAID To CASH COLD DRINK & TEA BILL PAID		330.00 330.00
CARTAGE PAID FREIGHT INWARD A/C		To CASH CARTAGE PAID To CASH FREIGHT PAID AGAINST B-NO 24 LDH GR NO 1 17110		1,820.00 1,570.00
POSTAGE EXP R.K.STEELS PARVEEN KUMAR SHARMA IMPREST A/C	JALANDHAR	To CASH COURIER CHARGES By CASH RECD To AMOUNT CASH PAID	10,000.00	44.00 2,00,000.00
		<b>Total Balance CF</b>	3,02,795.00	2,94,784.00
		<b>Grand Totals</b>	3,02,795.00	3,02,795.00
<b>Date : 17-Apr-2017</b>		<b>Balance B/F</b>	98,011.00	
ENTERTAINMENT EXPENSES POSTAGE EXP FREIGHT INWARD A/C		To CASH FOR MILK & ELACHI To CASH COURIER CHARGES To CASH FREIGHT PAID AGAINST B-NO 29 LDH GR NO 1 17138		424.00 186.00 935.00
CARTAGE PAID POSTAGE EXP		To CASH CARTAGE PAID To CASH COURIER CHARGES		1,600.00 30.00
		<b>Total Balance CF</b>	98,011.00	3,174.00
		<b>Grand Totals</b>	98,011.00	94,837.00
<b>Date : 18-Apr-2017</b>		<b>Balance B/F</b>	94,837.00	
SCOOTER EXP POSTAGE EXP FREIGHT INWARD A/C		To CASH MEMO NO 2582 CVD PETROL To CASH COURIER CHARGES To CASH FREIGHT PAID AGAINST B-NO 27 LDH GR NO 1 17153		300.00 67.00 295.00
FREIGHT INWARD A/C		To CASH FREIGHT PAID AGAINST B-NO 4722 LDH GR N O, 117101		85.00
FREIGHT INWARD A/C		To CASH FREIGHT PAID AGAINST B-NO 33 LDH GR NO 1 11159		910.00
INWARD A/C		To CASH FREIGHT PAID AGAINST B-NO 8 LDH GR NO 11 7128		100.00
INWARD A/C		To CASH FREIGHT PAID		763.00
		<b>Total Balance CF</b>	94,837.00	2,517.00

03AARPM2669D12K

**MALHOTRA HARDWARE STORES**  
INDUSTRIAL AREA, NEAR KALI MATA MANDIR, JALANDHAR  
**Statement of Account**

Period : 01-04-2017 - 31-03-2018

Page No. 1

A/c : PARVEEN KUMAR SHARMA IMPREST A/C

Date	B	Narration	Quantity	Debit	Credit	Balance
15-04-2017	C	To AMOUNT CASH PAID		2,00,000.00		2,00,000.00 Dr
		<b>Totals</b>		<b>2,00,000.00</b>		<b>2,00,000.00 Dr</b>

M/S. MALHOTRA HARDWARE STORE, NR KALI MATA MANDIR, IND. AREA, JALANDHAR CITY  
Balance Sheet As on 31.03.2018

LIABILITIES		AMOUNT	ASSETS		AMOUNT
<u>PROPRIETOR'S CAPITAL A/C</u>			<u>FIXED ASSETS</u>		
Yash Pal Malhotra		30915569.70	As per schedule annexed		3115949.77
<u>UNSECURED LOANS</u>			<u>INVESTMENTS</u>		
Sundry Depositors		31475670.00	Investment in Immovable Property		9418191.00
<u>CURRENT LIABILITIES</u>			<u>CURRENT ASSETS</u>		
Sundry Creditors		53691222.24	HDFC Top 200 Fund		120000.00
Cheque issued but not presented		101391.00	PNB Indl Area C/A		1031604.39
Expenses Payable		701564.00	HDFC Bank Ltd. C/A		50300.00
		54454577.24	PPF S.B.I		806083.00
			Cash In Hand		202776.00
			Sundry Debtors		64852294.52
			Franklin India Prime Fund		60000.00
			Stock in Hand		25040823.00
			HDFC Bank Ltd. A/C 0001		2016719.09
			PNB SB A/C 23277		43844.49
			HDFC Bank Ltd FDR A/c		974114.15
			Packing Material In Hand		25250.00
			Cheque Deposited but not Encashed		112174.00
			HDFC Bank Ltd Sb A/C		222398.71
					95558081.36
			<u>LOANS, ADVANCES &amp; SECURITIES</u>		
			Electricity Security		16226.00
			Vat Recoverable		5774172.00
			Prepaid Insurance		26150.00
			Advance Income Tax		80000.00
			Parveen Kumar Sharma Imprest A/c		20000.00
			Electricity Reimbursement Samsung		2229.00
			Electronic Credit Ledger Sgal		573860.00
			GST Receivable		1032030.00
			Margin Money C/c Refundable		9847.61
			TDS		273560.20
					8793864.81
					116886116.94

AUDITOR'S REPORT  
As per our separate report  
of even dated annexed  
For M.P. MOHINDRU & CO

(Y.P. MOHINDRU)  
(PARTNER)  
CHARTERED ACCOUNTANT  
MEMBERSHIP NO. 10105

6.5 Apart from above grounds, there are legal grounds also which has been taken in the memorandum of appeal in Form 36 which relates to initiation of the proceedings u/s 148 of the Act on the basis of information received from the warrant of authorisation u/s 132A of the Act and it is the argument of the assessee that in the instant case, the provisions of section 153C of the Act is applicable and the present proceedings initiated u/s 148 are illegal and bad in law.

7. The Id. DR relied on the order of the Id. CIT(A). But could not controvert the contention of the assessee's that the amount of Rs.2 lakhs which is agreed to have been paid by the assessee to the commission agent, is clearly reflected in his regular books including his cash book and the source of such advance are proved beyond a shadow of doubt.

8. We have considered the rival submissions and materials on record and we are of the opinion that the amount of Rs.2 lakhs is duly reflected in the books of the assessee to have been paid out of cash available in the regular books of accounts and is clearly reflected in the cash book and the relevant entry on 15.04.2017, is made a part of this order. We also find that the said amount of Rs.2 lakhs is reflected as assets in the balance sheet in the name of *Mr. Parveen Kumar Sharma* and as such, there is no reasons at all to treat this amount as unexplained u/s 69A of the Act because the said amount is very much explained to have come out of the regular

books of accounts. As such, we are of the opinion that this addition made by the AO and sustained by the Id. CIT(A) is not as per provisions of law and as such, the said addition is hereby deleted.

8.1 Since we have already allowed the appeal on merits, we are not adjudicating the legal grounds as raised in Form 36, which will only be academic in nature.

9. In the result the appeal of the assessee is allowed.

**Order pronounced on 13.08.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

Sd/-

**(BRAJESH KUMAR SINGH)**  
**Accountant Member**

Sd/-

**(UDAYAN DASGUPTA)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order

