

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, GUWAHATI**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 118/GTY/2025**  
**Assessment Year: 2022-23**

**Mohammed Asad,**

H No. 12, Near Choti Masitd,  
Sheranipura, Ratlam - 457002  
[PAN: CEEPA1366K]

.....**Appellant**

**vs.**

**ACIT, Central Circle-1, Guwahati,**

Aayakar Bhawan, Christian Basti,  
G.S. Road, Guwahati - 781005

..... **Respondent**

**Appearances by:**

Assessee represented by : Sanjay Mody, FCA  
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 19.08.2025  
Date of pronouncing the order : 21.08.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. The present appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), dated 31.03.2025, passed by Ld. Commissioner of Income Tax (Appeals)- Central NER, Guwahati.

1.1 In this case, the Ld. AO passed an order u/s 144 of the Act and added an amount of Rs. 18,00,000/-, representing the cash seized by the assessee from a Delhi to Guwahati Flight. It is seen that during the course of assessment proceedings, the assessee’s reply that the impugned amount represented earlier withdrawals from bank accounts and left-over

foreign currency, was not found acceptable. The assessee repeated the same arguments at first appeal stage as were presented before the Ld. AO. The Ld. CIT(A) has held that the explanation submitted did not discharge the burden of proof for the purposes of section 69A of the Act.

1.2 Further aggrieved, the assessee has filed the present appeal with the following grounds:

*“1. For that the Id. CIT(A), Central NER, Guwahati (CIT(A)) vide appellate order dated 31.03.2025 passed under section 250 of the Income-tax Act, 1961 (Act) ought to have hold that the order of assessment dated 27.03.2024 passed under section 144 of the Act by the learned ACIT, Central Circle-1, Guwahati (AO) is bad in law, facts and procedure.*

*2. For that the Id. CIT(A) ought to have hold that in absence of issuance and service of any notice under section 143(2) of the Act by the Id. AO after furnishing of return of income by the assessee on 29.07.2023 vide e-Filing acknowledgement number 815804430290723, the impugned order of assessment passed is without jurisdiction and bad in law.*

*3. For that the id. CIT(A) ought to have hold that the order of assessment passed by the Id. AO in absence of issuance of any draft order as per mandate of section 144C of the Act is bad in law and untenable*

*4. For that the Id. CIT(A) ought to have hold that in absence of any order under section 127 of the Act having been served upon the assessee, the impugned order of assessment passed by the Id. AO is without jurisdiction and bad in law.*

*5. For that the Id. CIT(A) ought to have hold that in absence of any valid prior approval order under section 1488 of the Act having been obtained by the Id. AO, the impugned order of assessment is untenable and bad in law.*

*6. For that the Id. CIT(A) ought to have hold that the Id. AO has treated the seized cash of Rs. 18,00,000/-as undisclosed business income accrued in India was not justified in arbitrarily adding the same by Invoking provisions of section 69A of the Act. The said addition is self-contradictory, arbitrary and beyond the jurisdiction of section 69A of the Act and hence, the same is liable to be deleted.*

*7. For that on the facts and circumstances of the case, the Id. CIT(A) ought to have hold that the id. AD was not justified in arbitrarily adding Rs. 18,00,000/- to the income of the assessee.*

*8. For that the Id. CIT(A) ought to have hold that the impugned order of assessment having been passed by the Id. AQ without issuing any valid show-cause notice giving reasons for not accepting submissions of the assessee and*

*in gross violation of the principles of natural justice, the same is bad in law and unsustainable.*

*9. For that the impugned appellate order having been passed by the Id. CIT(A) without allowing any reasonable opportunity of hearing to the assessee and in utter disregard to the principles of natural justice, the same is bad in law.*

*10. For the appellant craves leave of your honour's to take additional ground or grounds of appeal and/or to modify or resign any ground(s) of appeal before or at the time of bearing.*

2. Before us, the Ld. AR argued on the basis of Ground No. 3 which states that in the absence of draft order u/s 144C of the Act the resultant AO's order was illegal in the eyes of law. The Ld. AR also argued that as per Ground No. 2, no notice u/s 143(2) of the Act was issued by the Ld. AO and on this ground also the proceedings were vitiated. The Ld. AR mentioned that these specific grounds could not be raised before the Ld. CIT(A) and hence there was no occasion to plead the same before him.

2.1 The Ld. DR relied on the orders of authorities below and stated that the cash seizure was not explained by the assessee and hence the additions were deserved.

3. We have carefully considered the rival submissions and have gone through the records before us. It is seen that the Grounds of Appeal Nos. 2 and 3 (supra) were not before the Ld. CIT(A) and hence these grounds have not been adjudicated on the basis of the factual details relevant for arriving at a logical conclusion in regard to outcome in case either notice u/s 143(2) of the Act is not issued or even a draft order u/s 144C of the Act has not been served on the assessee for his comments. Accordingly, we deem it fit to remand this matter back to the file of Ld. CIT(A) for fresh adjudication not only with respect to the assessee's challenge regarding the Ground Nos. 2 and 3 (supra) but also regarding the merit of the claim that the impugned amount has a valid source. Needless to say, the Ld. CIT(A) would give opportunity of being heard and the assessee would comply with the notices issued in the case.

4. In result, appeal of the assessee is allowed for statistical purposes.

Order pronounced on 21.08.2025

Sd/-  
**[Manomohan Das]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 21.08.2025  
AK, Sr. PS

*Copy of the order forwarded to:*

1. The Appellant
2. The Respondent
3. CIT(A)
4. CIT
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches