

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

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. Nos. 701 & 406/Asr/2024

Assessment Year: 2015-16

Sainik Cooperative House
Building Society Ltd.,
Sainik Colony, Jammu
180011 J & K

Vs.

Income Tax Officer,
Ward-1(1), Jammu

[PAN: AACAS 9463J]

(Appellant)

(Respondent)

Appellant by : Sh. Rohit Kapoor, Adv. &
Sh. V. S. Aggarwal, ITP
Respondent by : Sh. Charan Dass, Sr. D.R.
Date of Hearing : 10.07.2025
Date of Pronouncement : 28.08.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the Id. CIT (A) NFAC, Delhi dated 14.11.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, Ward-1(1), Jammu passed u/s 147 r.w.s. 144 of the Act, 1961 dated 28.03.2023.

2. Grounds of appeal taken by the assessee in Form No. 36 are as follows in ITA No. 701/Asr/2024:

- “1. That the CIT(A) has erred in facts and in law in confirming the addition made by the AO at Rs. 1003000/-on account of cash deposited in bank, Rs. 8748427/-on account of investment in FDRs, Rs. 909969/-on account of Interest received from bank towards income from other sources and Rs. 177126/-on account of Rental receipts.
2. That the CIT(A) has erred in deciding the appeal in limine without adjudicating the case on merits and law.
3. That the CIT(A) has erred in confirming the addition without appreciating that the Jurisdictional condition u/s 149(1) (b) has not been complied with while issuing the notice issued u/s 148. That the CIT (A) has failed to appreciate the fact that the source of FDR is out of maturity of earlier FDRs and as such, the basic requirement of escaped income of Rs.5000000 is not fulfilled.
4. That the CIT(A) has erred in not providing the benefit of Statutory deduction of 30% u/s 24 in respect of Rent credited in bank account to the tune of Rs. 177126/-.
5. That the CIT(A) has erred in not appreciating the fact that the Cash deposited in the Bank represents Cash collection from members of the society and has erred in not allowing the benefit of expenses against such cash deposited.
6. That the CIT(A) has erred in confirming the addition in respect of FDRs amount in Rs. 8748427/-made by the AO u/s 69 without appreciating the fact that the investments in FDR to the tune of Rs. 8202048 and Rs. 546379 were out of maturity proceeds of earlier years FDR's
7. That the assessee craves leave to add, amend and withdraw any of the grounds of appeal.”

3. Brief facts emerging from record are that the assessee (*association of persons*) has not filed any return of income and as per information available in the departmental portal, the assessee has entered into the financial transaction amounting to *Rs.1.08 crores* during the financial year 2014-15 (*relevant to the year under appeal*) which included cash deposit in bank amounting to *Rs.10.03 lakhs*, investment in time deposit (F.D.) amounting to *Rs.87.66 lakhs*, FD interest from bank amounting to *Rs.9.09 lakhs* and income from rent on Plant & Machinery amounting to *Rs.1.77 lakhs*.

4. The reassessment proceedings were initiated as per procedure vide issue of notice u/s 148 of the Act dated 29.03.2022, calling for return of income, and in absence of any response from the assessee in course of assessment proceedings, the assessment has been completed on a total income of *Rs.1.08 crores*.

5. The matter was carried in appeal and the ld. first appellate authority dismissed the appeal in absence of any response to various notices issued from the office of the first appellate authority on four different dates as evident from the appellate order, even though it is seen that adjournment has been sought on two different occasions.

6. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. In course of hearing, the ld. AR of the assessee has filed a short paper book containing copies of notice issued u/s 148A(b), 148A(d) order,

copies of notice u/s 148 and copies of bank statement of *Punjab National Bank and The Citizens Cooperative Bank Ltd.* being the two bank accounts where the financial transactions of the assessee has taken place. He submitted that there has not been any fresh investment in fixed deposit and the information collected by the Assessing Officer is in respect of the maturity proceeds of old fixed deposit being reinvested. He further submitted that the interest received from the banks or on account of the said same fixed deposit and he explained that the source of cash deposited in banks are out of withdrawals from other bank accounts.

7. He further explained that cash has been withdrawn from *Punjab National Bank (A/c No. xxxxx6957)* on various dates which have been deposited in cash in *The Citizen Cooperative Bank Ltd. (A/c No. xxxxxx20156)* on matching dates. He further submitted that in the instant case, the jurisdictional threshold for reopening assessment beyond a period of three years u/s 149(1) Clause (b) of the Act requires that the AO must have any evidence in his possession which suggests that income chargeable to tax, (*represented in the Form of asset*) has escaped assessment of an amount of *Rs.50 lakhs or more*. He further submitted that in the instant case, since the fixed deposits investments are all renewals of old fixed deposits and there has not been any fresh investments, the total income arising to the assessee will be less than *50 lakhs (fifty lakhs)* and as such the provisions of section 149(1)(b) stands violated in this case. In support of his contention, he relied on the following decisions of

various courts and Tribunals to argue that if more than three years have lapsed, then the notice u/s 148 can be issued only if value of income escaping is more than *Rs.50 lakhs* and on this issue he relied on the judgment of the Hon'ble Bombay High Court in the case of *Sunita Purushottam Virgincar [2024] (8) TMI 1081* and also on the decision of *Madhya Pradesh High Court in the case of Nitin Nema [2023] (8) TMI 1027*. As such, he prayed that in the instant case, the addition sustained by the Id. CIT(A) may please be deleted.

8. The Id. DR relied on the order of the Id. CIT(A) and has submitted that though opportunities were allowed on various occasions and adjournment has been sought by the assessee in course of appellate proceedings, there has not been any compliance on the part of the assessee and in absence of any documentary evidences or compliance, it was not possible for the Id. first appellate authority to adjudicate on merits of the case. He further submitted that the issue of cash deposited in bank account needs to be verified from the various bank statement furnished by the assessee.

9. Considering the fact that there has not been any compliance before the Assessing Officer, the Id. D.R. has no objection if the matter is remanded back to the files of the Id. Assessing Officer for considering the assessment afresh after looking into all documentary evidences to be furnished by the assessee.

10. We have heard the rival submissions and considered the materials on record and we find that there has not been any compliance in course of reassessment proceedings and the assessee has been a non filer. However, considering the arguments on merits as submitted by the Id. AR of the assessee, we find that the jurisdictional condition u/s 149(1)(b) as to the basic requirements of quantum of income escaping assessment is directly linked to the investments actually made by the assessee in fixed deposit and also to prove the source of the cash deposited in bank. In absence of any documentary evidences being filed by the assessee before the AO and also before the Id. first appellate authority, it was not possible to ascertain the quantum of fresh investment and it was also not possible to presume the source of cash deposit in bank to have come out of bank withdrawals.

11. As such, in the interest of justice, we are of the opinion that the matter should be remanded back to the Assessing Officer for fresh assessment on merits of the case after considering all documentary evidences to be furnished by the assessee in support of his contention and to explain the source of cash deposits in bank account and also to explain the source of investments made in time deposits which according to the assessee are maturity proceeds of old FDRs.

12. With the above observations, we set aside the matter back to the files of the Assessing Officer for fresh assessment.

13. The assessee may be allowed reasonable opportunity of being heard and the assessee is also directed to file all documentary evidences in support of his contention and to fully cooperate in the assessment proceedings.

14. We have not expressed any opinion on merits of the case and all legal issues are left open.

15. In the result, the appeal filed by the assessee is allowed for statistical purpose.

ITA No. 406/Asr/2024 for A.Y. 2015-16:

16. This appeal is filed by the assessee against the order of the Id. CIT (A) NFAC, Delhi dated 14.05.2024 passed u/s 250 of the Income Tax Act, 1961 against the penalty imposed u/s 271(1)(c) of the Act, 1961.

17. Since, we have set aside the quantum appeal back to the files of the Assessing Officer for fresh assessment on merits, our observations in ITA No. 701/Asr/2024 will apply mutatis mutandis to the instant penalty appeal as well. We also set aside

the penalty mater back to the files of the Assessing Officer to be considered in tandem with the fresh assessment proceedings.

18. In the result, both the appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 28.08.2025.

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1)The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order