

**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. No. 678/Asr/2024**  
Assessment Year: 2016-17

Mohd. Hanifa  
Main Road Dal Gate  
Near Bus Stop, Srinagar  
190001, Jammu & Kashmir

Vs.

Income Tax Officer,  
Ward-3(1), Rajbagh,  
Srinagar

[PAN: AHAPH 1539E]  
**(Appellant)**

**(Respondent)**

Appellant by : Sh. Ishtiyaq Ahmad Wani, C.A.  
Respondent by : Sh. Charan Dass, Sr. D. R.  
Date of Hearing : 07.08.2025  
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 18.10.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC passed u/s 147 r.w.s. 144B of the Act, dated 29.01.2024.

2. The assessee has taken five grounds of appeal and one of the grounds relates to the issue that no proper opportunity of hearing has been allowed by the Id. first appellate authority and as apparent from the appellate order notices of hearing has been issued through ITBA portal and the Id. first appellate authority has sustained the addition without appreciating the preliminary facts of the case that the assessee is a resident of Kargil, Ladakh and his covered by the Scheduled Tribes certificate. Apart from the above, the assessee has also challenged the initiations of proceedings on legal grounds on the validity of issue of notice under section 148 of the Act, being issued by the A.O. without jurisdiction.

3. The brief facts of the case are that the assessee has deposited an amount of Rs.84 (eight four) lakhs in cash in his Bank A/c with *Jammu & Kashmir Bank (A/c No. xxxxx00338)* during the financial year 2015-16 (*relating to the year under appeal*). In absence of any response to various notices issued by the Assessing Officer, the assessment was completed ex-parte by determining the total income at *Rs.11.77 lakhs (being 10% of total bank credits of Rs.1.17 lakhs)*.

4. The matter was carried in appeal and the Id. first appellate authority dismissed the appeal in absence of any response from the assessee and upholding the estimation of the AO as reasonable.

5. In course of appeal before the Tribunal, the Id. AR of the assessee submitted a short paper book *containing 54 pages* consisting of copy of Shop Registration Certificate issued by administration of Union Territory of Ladakh under *Shop and Establishment Act, 1996*, as proof that the assessee is carrying on business of electronic items under the trade name of *Asian Traders*. He further stated that the assessee belongs to the *Balti Tribe* as defined u/s *Jammu & Kashmir Scheduled Tribes, issuance of Certificate Rules, 1990* (copy of the said certificate is enclosed in paper book page no. 35). The assessee has also submitted copies of VAT Registration Certificate, purchase bills of suppliers and copy of his Aadhar card to prove the existence of his business.

6. The Id. AR further submitted that the assessee being a Member of a Scheduled Tribes as defined in Clause 25 of Article 266 of the Constitution of India and residing in the Ladakh region of the State of Jammu & Kashmir, his income is exempted u/s 10(26) of the Act, 1961 and he is not liable to pay any income tax. He further submitted that this information was brought to the knowledge of the Assessing Officer but the Assessing Officer has not taken the same into cognizance and subsequently the Id. first appellate authority has also not discussed the said provisions in his appellate order.

7. As such, he prays that the addition made by the Assessing Officer and sustained by the Id. CIT(A) may please be deleted because the assessee's income is exempted u/s 10(26).

8. The Id. DR relied on the order of the Id. CIT(A) but has no objection if the documentary evidences which are now submitted before the Tribunal for the first time be examined by the Assessing Officer and the matter is remanded back to the AO for fresh assessment.

9. We have heard the rival submissions and considered the materials on record and we find that the Assessing Officer has not discussed regarding the existence of the certificates issued by the office of the Tehsildar Kargil, Government of Jammu & Kashmir certifying the assessee as a member of the Scheduled Tribes. From the documentary evidences submitted before us, we are of the opinion that as per provisions of section 10(26) of the Act, any income which accrues or arises to the assessee from any source in the areas in the *Ladakh region* of the State of *Jammu & Kashmir* shall not be included in computing the total income of the previous year. On the basis of the certificate and the documentary evidences produced the assessee is carrying on the business located at Kargil and is claimed to be covered by section 10 (26) of the Act. However, these documentary evidences produced before us now has

not been discussed neither by the Assessing Officer nor by the Id. CIT(A) and the authenticity of these documents needs to be verified and enquired upon.

10. As such, in the interest of justice, we set aside the case back to the files of the Assessing Office for fresh assessment after causing necessary enquiry and verification of the documentary evidences submitted by the assessee. The assessee is also directed to submit all these documentary evidences before the Assessing Officer and to furnish necessary explanations in support of his contention and claim u/s 10 (26) of the Act, and to fully cooperate in the fresh assessment proceedings.

11. The assessee will be allowed the claim of exemption u/s 10 (26) of the Act, subject to verification and authentication of documentary evidence.

12. The assessee to be allowed reasonable opportunity of being heard.

13. In the result, the appeal filed by the assessee is 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