

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 127/PAT/2025
Assessment Year: 2019-20**

| | | |
|------------------------------------|-----|--|
| Chanda Singh <i>(Appellant)</i> | Vs. | ACIT, Central Circle-3, Patna <i>(Respondent)</i> |
| PAN: HPZPS4639A | | |

Appearances:

Assessee represented by : R.K. Jha, AR.

Department represented by : Rajat Datta, CIT(DR).

Date of concluding the hearing : 23-July-2025

Date of pronouncing the order : 02-September-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)- 3, Patna [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2019-20 dated 19.02.2025, which has been passed against the assessment order u/s 153C of the Act, dated 29.03.2022.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“A) The learned AO & CIT (A) has grossly erred in the addition made by invoking section 69 since the same cannot be invoked unless and until such investment is found to have been not recorded in the books of account; in the instant case the assessee was not required to maintain any books of



accounts since she was deriving income from other sources as detailed in the submission and that the income for the relevant assessment year was below taxable limit, no ITR was required to be filed either, further where the recipient of investment money had acknowledged the receipt of such money in the previous years through a dated consent letter, it was completely arbitrary to treat them as investment of the assessment year 2019-20, when the assessee had shown such transactions in FY 2010-11, FY 2011-12 & FY 2012-13 without any rebuttal.

That being the case the provisions of section 69 fail to attract the cause, and therefore the order lacks any legal tenability, consequently addition pronounced by the said order is fit to be reversed.

B) The Learned AO & CIT (A) has not appreciated the fact that unexplained investment clause of section 69 of the Income Tax Act, 1961 does not attract unless there is a finding of not recording of such transactions in the books of accounts. There are two limbs of the definition of undisclosed investment and both have to be read together in harmony, where one of them does not apply the second automatically fails to stand on its own. Unless the assessee had income above Rs. 50.00 lakhs or Business income, there is no need to furnish any Asset liability statement in the Income Tax Return, that being the case, before holding the investment as unexplained the learned AO has not put to record as to where those details should have been filed by the assessee.

Where books of accounts are not liable to be maintained section 69 does not apply. Further books of accounts do not mean cash book and ledger only; it includes all such documents which can help the assessing officer to compute the income of the assessee, in the instant case where a sale deed was brought into question, the addition (alleged unexplained investment) finds its mention therein, that in itself is a fair indication that the assessee had purchased the land at that value, and from her end it stood disclosed as a bonafide transaction, the seller too being a party to the sale deed has acknowledged the same value in the deed as well as the consent letter, that being the case this is beyond any human probability to treat it as unexplained where the assessee ensured through all corroborative evidences that transactions have been properly disclosed and accounted for in the sale deed.

The addition is therefore devoid of any merit and fit to be quashed.

C) The Assessing officer & CIT (A) has brought to tax the alleged unexplained investment in the year in which the sale deed was registered and not when the money was transacted that is FY 2010-11, FY 2011-12 & FY 2012-2013, despite the fact that evidence of such transaction given as advance money was presented to her satisfaction by way of a dated acknowledgement letter issued by the sellers, no rebuttal was presented to the assessee by the learned AO and therefore such addition based on surmises, conjecture and



hypothesis without having any material evidences are not tenable in law, hence the addition made is fit to be set aside.

D) The learned AO & CIT (A) in the assessment/appellate order have mentioned "the assessee did not appear to possess the required disclosed sources of income such assumptions not backed by any corroborative evidences are harsh, unjust and goes against the natural justice of providing the assessee an opportunity to counter the claim of alleged unexplained source of income/investment. The AO did not possess any pecuniary jurisdiction either to observe the admissibility or otherwise of the income of the assessee for the FY 2010-2011, FY 2011-2012 & FY 2012-2013, (being barred by limitation) and hence unless the amount in question was disproportionately high to lead it to an absurd conclusion, to treat the assessee as having concealed particulars is absolutely whimsical and the order giving effect to such additions is impugned and inconsequential and should be reversed.

E) That for reasons recorded in writing the said assessment order is impugned and the addition of Rs. 17,51,000/- is arbitrary & flimsy thus bad in law and fit to be deleted.

F) For that the appellant may not be treated as assessee in default in respect of the disputed demand including interest amounting to Rs. 22,36,171/-.

G) To urgent any other ground, submission and or citations of circulars/notifications/judicial or quasi-judicial pronouncements/judgments etc. at the time of hearing and we pray for the admissibility of it with your learned self's permission."

3. The grounds of appeal are argumentative. Brief facts of the case are that a search and seizure operation u/s 132(1) of the Act and a survey operation u/s 133A of the Act were conducted at various premises of the linked persons of 'Uma Kant Singh Group' of cases. The assessee, belonging to the group, did not file her return of income for the AY 2019-20 u/s 139 of the Act. During the search, the assessee was found to have entered into some transactions with her husband, Shri Uma Kant Singh, the key person of this group. Since these transactions had a bearing on the computation of the total income of the aforesaid assessee, this nexus led to the proceeding u/s 153C of the Act. During the post-search inquiry, it was found that the assessee had made an investment of ₹38,15,000/- during the FY 2018-19 in a property vide



Deed No. 11148, as was evident from the documents found and seized during the search operations, out of which ₹17,51,000/- was paid in cash. During the assessment proceedings, the assessee was asked to produce the details of her source of investment; in response to which the assessee filed her submission stating that out of total investment of ₹38,15,000/-, a sum of ₹21,00,000/- was paid through her bank account which was received from her husband, Shri Uma Kant Singh and the rest was paid in cash. However, the assessee was not able to produce valid documents in support of her claim. In addition, she also did not appear to possess the required disclosed source of income to have made such an investment. Therefore, the advance of ₹17,51,000/- towards the purchase of property paid in cash remained unexplained. This amount was added to her total income as unexplained investment u/s 69 of the Act and was taxed u/s 115BBE of the Act. Penalty u/s 271AAC of the Act was also initiated for such default. The facts of the case as mentioned in Form No. 36 are as under:

- “1. A search and seizure operation u/s 132(1) and Survey Operations u/s 133A of the Income Tax Act, 1961 (hereinafter called the Act) were conducted at various premises of the linked persons of the "Uma Kant Singh Group" of cases. The assessee, belonging to the group, did not file her return of income for the AY 2019-20 u/s 139 of the Income Tax Act, 1961. During the search, the assessee was found to have entered into some transactions with her husband, Shri Uma Kant Singh, the key person of this group. Since these transactions had a bearing on the computation of the total income of the aforesaid assessee, this nexus led to the proceedings under section 153C of the Act. Consequently, the case of the assessee was centralized with the Central Circle-3, Patna, and accordingly, a satisfaction note was drawn for initiating proceedings u/s 153C on the assessee,*
- 2. Notice u/s 153C was issued to the assessee on 03/01/2022. Thereafter, Notice u/s 142(1) along with a detailed questionnaire was issued and served upon the assessee on 12/01/2022. The assessee filed her return of income u/s 153C on 22/02/2022 vide e filing acknowledgement number 240912390220222. Subsequently notice u/s 143(2) was issued on 04/03/2022. In response to the notice u/s 142(1), AR of the assessee*

appeared from time to time and filed the submissions. The case was heard and discussed.

3. Assessment Order under section 153C of the Income Tax Act 1961 was passed by the Learned AO on 29.03.2022 after having gone through the case, with relevant submissions from the assessee the AO made additions under the following observation:

Para-03

During the post-search inquiry, it was found that the assessee has made an investment in a property of Rs. 38,15,000 during the FY 2018-19 vide Deed No. 11148, as it was evident from documents seized during the search operations, out of which Rs. 17,51,000 was paid in cash. During the assessment proceedings, the assessee was asked to produce the details of her sources of investment. The assessee filed her submission on 22/02/2022 stating therein that out of the total investment of Rs. 38,15,000, Rs. 21,00,000 was paid through her bank account, which was received from her husband, Shri Uma Kant Singh. However, the assessee was not able to produce valid documents in support of her claim with regard to the payment of Rs. 17,51,000 which were made earlier. In addition, she also did not appear to possess the required disclosed source of income to have made such an investment. Therefore, the advances of Rs. 17,51,000 towards the property remain unexplained. This amount is added to her total income as unexplained investment u/s 69 and to be taxed u/s 1158BE. Penalty u/s 271AAC is also initiated for such default.

4. Being aggrieved by the Assessment order of the learned AO appeal was filed before the learned CIT (A), Patna on 25.04.2022 against the order u/s 153C of the Income Tax Act dated 29.03.2022 passed by ACIT, Central Circle-3, Patna.

5. Opportunity of being heard was provided to the appellant by issue of notice u/s 250 of the Income Tax Act. In response to the hearing notices issued, the appellant uploaded written submission and appeared before the CIT (A).

6. The learned CIT (A) after having gone through the submissions passed the order on 19.02.2025 after having opined that

"I have carefully considered the assessment order and written submission filed by the appellant. In his written submission, the Ld.AR of the appellant stated that where books of account are not required by the law to be kept, in that case provisions under section 69 of the Act cannot be invoked and made reference of judgement of the Hon'ble Delhi High Court in the case of Commissioner of Income Tax (International Taxation) 1, New Delhi Vs Hersh Washeshar Chadha. On perusal of record, it is noticed that the appellant has made investment in land of Rs.38,15,000/- during the year. Out of

Rs.38,15,000/-, the advance of Rs. 17,51,000/- was paid in cash and the appellant has failed to explain the nature and source of cash investment in property along with documentary evidence. Therefore, the same remains unexplained. Hence, provision of section 69 of the Act is attracted in the instant case.

Since, the appellant has made investments during the year, and she has failed to furnish satisfactory explanation about nature and source of investment along with documentary evidence, the same is treated as unexplained investment u/s.69 of the Act as per the provision of section 115BBE of the Act. The case laws relied upon by the appellant are of no avail as in these cases the source was found to be explained. It has not been categorically held that if the assessee is not required to maintain books, provisions of Section 69A will not be applicable. What is of import is not the fact whether the transaction has been recorded or not but the nature and source thereof has to be explained to the satisfaction of the Assessing Officer. In the instant case, the source of cash paid for purchase of property was not proved by the appellant to the satisfaction of the AO. I am also of the considered opinion that the appellant has failed to prove the source of investment. Hence, the addition made by Ld. Assessing Officer is hereby confirmed. With these observations, the above grounds are dismissed.”

7. Being aggrieved by the Appellate order of the learned CIT (A) the assessee is therefore preferring an appeal to decide

A) "where the assessee is not required to maintain any books of accounts, whether section 69 of the Income Tax Act, 1961 can be invoked?"

B) "Where the assessee has furnished an explanation regarding the source and application of income (investment), and that the learned AO as well as the CIT (A) has not examined them nor produced any rebuttals, the rejection of such explanations sufficient so as to cover them u/s 69 of the Act?"

8. Being substantial question of law involved, the assessee therefore is before the learned Income Tax Appellate Tribunal, Patna Bench, on the following grounds of appeal.”

(The grounds of appeal have been mentioned in para 2 above).

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who has discussed the finding of the Ld. AO, the submission of the assessee and has given his finding as under:

“I have carefully considered the assessment order and written submission filed by the appellant.

In his written submission, the Ld.AR of the appellant stated that where books of account are not required by the law to be kept, in that case provisions under section 69 of the Act cannot be invoked and made reference of judgement of the Hon'ble Delhi High Court in the case of Commissioner of Income Tax (International Taxation)-

1. New Delhi Vs Hersh Washeshar Chadha.

On perusal of record, it is noticed that the appellant has made investment in land of Rs.38,15,000/- during the year. Out of Rs.38,15,000/-, the advance of Rs. 17,51,000/- was paid in cash and the appellant has failed to explain the nature and source of cash investment in property along with documentary evidence. Therefore, the same remains unexplained. Hence, provision of section 69 of the Act is attracted in the instant case. For the sake of discussion, the provisions of section 69 of the Act are as under:

"Section 69 of the Income tax Act 1961 states that "Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

Since, the appellant has made investments during the year, and she has failed to furnish satisfactory explanation about nature and source of investment along with documentary evidence, the same is treated as unexplained investment u/s.69 of the Act as per the provision of section 115BBE of the Act. The case laws relied upon by the appellant are of no avail as in these cases the source was found to be explained. It has not been categorically held that if the assessee is not required to maintain books, provisions of Section 69A will not be applicable. What is of import is not the fact whether the transaction has been recorded or not but the nature and source thereof has to be explained to the satisfaction of the Assessing Officer. In the instant case, the source of cash paid for purchase of property was not proved by the appellant to the satisfaction of the AO. I am also of the considered opinion that the appellant has failed to prove the source of investment. Hence, the addition made by Ld. AO is hereby confirmed. With these observations, the above grounds are dismissed.

5. In the result, the appeal is dismissed”

5. Aggrieved with the order of dismissal of appeal by the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.



6. Rival contentions were heard and the submissions made have been examined. It was submitted before us that e-mail submissions were made before the DDIT but the same were not received. The Ld. CIT(A) has made a mention in the order on page 6 of the evidence in relation to the source of investment yet has confirmed the addition. The assessee requested that sufficient time may be allowed to produce the required evidence which could not be produced before the Ld. CIT(A).

7. The Ld. DR submitted that the facts clearly state that section 69 of the Act is applicable to the facts of the case of the assessee as the nature and source of investment was neither explained before the Ld. AO nor before the Ld. CIT(A). He also submitted that the additional document filed in the form of copy of document signed by the recipients should not be admitted.

8. Before us, the assessee submitted through the Ld. AR vide submission dated 23.07.2025 that the sellers of the immovable property namely Shri Subodh Chandra Jha (PAN: AAXPJ2547A) and Shri Dibakar Jha (PAN: AAYPJ3335P) both are residents of Mirchibari, Maithil Tola, in front of Block Office Katihar, Bihar, 854109 and their details were available before the Ld. AO as well as before the Ld. CIT(A). However, none of them enquired about the genuineness of the cash transactions evidenced by the letter as earlier produced and a presumption was taken of the receipts being for the financial year in which the property was registered. It was asked from the Ld. AR whether the sellers could be produced for examination as the assessee was explaining the source and application of income in the earlier years and neither the Ld. AO nor the Ld. CIT(A) had examined the same, to which he answered in the affirmative.



9. We have considered the facts of the case and the submissions made. The ground relating to non-applicability of section 69 has been addressed by the Ld. CIT(A) and there is no need to interfere with his finding as section 69 for its applicability does not require maintenance of the books of account as a perusal of the provisions of section 69 would show. Hence, Ground Nos. A and B are dismissed. As regards the other grounds, the assessee has filed before us copy of an acknowledgment purportedly signed by Shri Subodh Chandra Jha and Shri Diwakar Jha for the amount received from 18.05.2010 till 18.03.2013 for the investment in the property and the details are as under—

| <i>Dates</i> | <i>Sh. Subodh Ch, Jha</i> | <i>Sh. Dibakar Jha</i> |
|--------------|---------------------------|------------------------|
| 18.05.2010 | 1,00,000.00 | 50,000.00 |
| 17.10.2010 | 1,25,000.00 | 50,000.00 |
| 22.02.2010 | 1,25,000.00 | 50,000.00 |
| 15.05.2011 | 1,00,000.00 | 50,000.00 |
| 22.09.2011 | 1,20,000.00 | 50,000.00 |
| 25.01.2012 | 1,20,000.00 | 50,000.00 |
| 08.04.2012 | 75,000.00 | 75,000.00 |
| 06.07.2012 | 75,000.00 | 75,000.00 |
| 08.09.2012 | 60,000.00 | 75,000.00 |
| 16.12.2012 | 50,000.00 | 75,000.00 |
| 18.03.2013 | 1,25,500.00 | 75,500.00 |
| Total | 10,75,500.00 | 6,75,500.00 |

10. Since this document claims that the assessee had made payments during the year 2010 to 2013 while the registration of the property took place in the period relevant for AY 2019-20 and neither these payments have been mentioned in the sale deed nor any evidence for investment in the earlier year had been filed before the Ld. AO or even before the Ld. CIT(A), therefore, in the interest of justice and fair play, both the orders of the Ld. AO as well as the Ld. CIT(A) are hereby set aside and the issue is remitted to the Ld. AO to examine the documentary evidence



filed and to reframe the assessment order in this respect. The assessee shall produce both the sellers/recipients to whom the advances were paid during the period from 18.05.2010 to 18.03.2013 for cross examination before the Ld. AO and also explain the source of these advances. The assessee shall also file necessary documentary evidence regarding the dates on which such advances were given by the assessee as well as received by the recipients and, thereafter, produce these persons for cross-examination before the Ld. AO. As the assessee claims that the money was paid in the earlier year while the registration was done in the subsequent year, therefore, the sellers are the witnesses of the assessee and it is for the assessee to produce them before the Ld. AO for cross-examination. The Ld. AO shall, after his cross-examination of the witnesses of the assessee, pass the assessment order in accordance with law considering the facts of the case and the result of cross-examination of the assessee's witnesses. For statistical purposes, the remaining grounds of appeal raised by the assessee are partly allowed.

11. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 2nd September, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 02.09.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Chanda Singh, Wife of Uma Kant Singh, Jagdev Nagar, Laliyahi, Katihar, Bihar, 854107.**
2. **ACIT, Central Circle-3, Patna.**
3. CIT(A)-3, Patna.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata