

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.510/RPR/2025
निर्धारण वर्ष / Assessment Year: 2014-15**

Lokeshwar Kumar Sahu,
Shri Balaji Construction Co.
Near Rest House Kathuriya
Complex, Ratnabandha Road,
Dhamtari, Chhattisgarh.
PAN: CTNPS5629H

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Assessing Officer,
Aayakar Bhawan, Shankar Dah,
Marg Harfatrai, Dhamtari,
493773, Chhattisgarh

.....प्रत्यर्थी / Respondent

Assessee by : Mr. R.B. Doshi, CA.

Revenue by : Ms. Manisha Kinnu, CIT-DR

सुनवाई की तारीख / Date of Hearing : 11.09.2025

घोषणा की तारीख / Date of Pronouncement : 12.09.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 16.07.2025 for the assessment year 2014-15 as per the following grounds of appeal:

‘1. *In the facts and circumstances of the case and in law, initiation of reassessment and invocation of sec. 147 is illegal, ab initio void inasmuch as there was no "reason to believe" that there was escapement of income. The initiation of reassessment and consequent reassessment order passed is illegal, unsustainable, ab initio void.*

2. *That the learned CIT(A) erred both in law and on facts in failing to appreciate that the reassessment proceedings were initiated on a protective basis, which is not legally valid, and erroneously treated the same as substantive, thereby uploading an assessment that lacked jurisdiction from the outset.*

3. *That the learned CIT(A) erred in sustaining the addition of ₹3,50,000 under section 69A despite the assessee having explained*

the source of funds and routed the loan through account payee transfer. There was no evidence that the funds were unexplained or belonged to the assessee beyond his declared income.

4. *The appellant craves leave to add, amend, or withdraw any ground at the time of hearing.”*

2. The assessee has assailed both grounds on merits as well as legal grounds. It is the contention of the Ld. Counsel for the assessee that if the grounds on merits are answered in affirmative then the legal grounds shall stand academic only.

3. In this case, the addition has been made by the AO disallowing the un-explained money u/s 69A of the Income Tax Act, 1961 (for short, ‘the Act’) and adding thereby Rs.3,50,000/- in the hands of the assessee. The assessee had deposited an amount of Rs.3,50,000/- in his bank account and had subsequently, given an un-secured loan to Mr. Santosh Ramrakhyani, earning an interest income therefrom. The said Mr. Santosh Ramrakhyani is a partner of M/s Shri Shakti Construction and the assessee as per his return of income has declared salaried income which he has earned as an employee of M/s Shri Shakti Construction. In other words, the assessee being an employee of M/s Shri Shakti

Construction has given un-secured loan of Rs.3,50,000/- to the partner of the said firm *i.e.* Shri Santosh Ramrakhyani. That as per the return of income, the assessee has shown income from salary and income from trading business. The Ld. Counsel for the assessee at the time of hearing had demonstrated from a copy of the trading license filed in the paper book finding its place at page No. 60, wherein, the said trade license for supplying building materials is valid for the period of 2013-17. The case of the assessee falls within the FY 2013-14 relevant to AY 2014-15 and since the trading license is valid upto 2017, hence, the business of trading is also not disputed in respect of the assessee. The assessee had explained before the AO that through the salary income as well as trading income whatever surplus remains after meeting his expenses and family requirements, the said savings are given as loan and in lieu of that interest is earned by the assessee. The same facts have been placed before the department in respect of the earlier assessment and such facts have not been disputed by the department. In the relevant year also, the amount of Rs.3,50,000/- has been accumulated through savings from the salary as well as trading business and the said amount has been deposited in the bank account of the assessee and from there, the assessee had given un-secured loan to said Shri Santosh Ramrakhyani, the partner of M/s Shree Shakti Construction *i.e.* employer of the assessee. The AO did not find favour with the submissions of the assessee

and, hence, made an addition u/s 69A of the Act and added Rs.3,50,000/- in the hands of the assessee.

4. That being aggrieved with the assessment order, the assessee had preferred an appeal before the Ld. CIT(A)/NFAC. The Ld. CIT(A)/NFAC after considering the submissions of the assessee and the assessment order has held as follows:

“The assessee has claimed that the AO had erred in making addition 10 income u/s 69A, Rs 3,50,000/- given as unsecured loan. However, it is seen during the assessment proceedings the assessee failed to produce any supporting documentary evidences to the prove the source of the alleged amount credited into his bank account and subsequent transfer of such amounts as unsecured loan to Shri Santosh Kumar Rakrakhyani, who is a partner of the Firm M/s Shri Shakti Construction (the same entity from which the assessee earning his salary income).

7.4.1. is seen from the records that the assessee had advanced a sum of Rs. 350,000/- unsecured loan during the FY 2013-14 relevant to AY 2014-15 th umar Rakrakhyani (partner of the Firm M's. Shri Shakti Construction) perusal of the assessee's bank statement reveals that the said amount was deposited in cash and was thereafter transferred to Shri Santosh Kumar Rakrokiyani on the very next day. Moreover, the assessco has also claimed to have received salary incore from the Firm Ma Shvi 15 through the bank account. A Shakti Construction during the year under consideration.

7.4.2. However, it is pertinent to mention that Shri Santosh Kumar Rakrakhyani is partner in the Firm M/s. Shri Shakti Construction (the same entity) from which the assessee earning salary income and Shel Santosh Kumar Rakrakhyani is the same concern to whom alleged unaccounted money has been routed in the form of an unsecured loan from assessee's account.

7.4.3. Further, the issue in contention arises from the comparison between the assessee's declared total income of Rs. 2,04,196/- during the year under consideration and the amount of loan advanced in the same period, which stands at Rs. 3.50,000/- This disparity clearly Indicates that the assessee did not have sufficient declared Income to justify the advancement of such a substantial loan. Further, once the return of Income of the assesson is perused, it is seen that the total gross receipts for the year are Rs.3,00,000/- only, and the net profit Rs. 60,000/-. Then how is it possible that the assessee withdrew 3.5 lakhs from his business and was still able to carry on his business activity?

7.4.4. The earning capacity of the assessee, based on the reported income, is clearly inadequate to support the loan advanced by him, thereby raising concerns regarding the genuineness and source of the funds advanced.

7.4.5. Further, the AO has adequately highlighted that the deposit of Rs. 3.5 lakhs in the bank account is the sole substantial credit entry in the bank account. This clearly demonstrates that the claim of the assessee regarding business activity rests on flimsy grounds.

7.5. Moreover, during the course of appellate proceedings, the assessee failed to produce any credible documentary evidence to establish that he had earned income over and above what he was declared in his return, or that he had any legitimate sources to justify the cash deposit and subsequent loan. This failure to substantiate the total income declared during the year under consideration, amount advanced and in light of the fact that the entire transaction originates from cash deposits leads to the conclusion that the assessee has not satisfactorily discharged his onus of earning capacity. The handwritten sale purchase bills submitted by the assessee are flimsy

7.6. Therefore, the findings of the AD are upheld in view of the following observations:

- There is only one cash deposit transaction in the bank account in the entire year.
- The whole amount is transferred in Mr. Santosh on the next day itself.
- The amount advanced is six times the claimed business profit
- The amount advanced is 1.5 times the total declared income of the assessee. The assessee's return does not substantiate that the cash deposit stands covered within his disclosed sources.

7.7. The circumstances suggest it is a deliberate attempt to introduce unaccounted money under the guise of an unsecured loan, a method often employed to give legitimacy to unexplained cash credits.

7.8. Therefore, in the absence of any reliable evidence regarding earning capacity, and considering the facts and

findings on record, the action of the AO in treating the amount of Rs. 3,50,000/- as unexplained money under Section 69A of the LT. Act, 1961, is justified and accordingly upheld.

Hence, this ground of appeal is DISMISSED,”

5. It is discernable from foregoing paras in the finding of the Ld. CIT(A)/NFAC that *prima facie* and the substantial ground for which he has sustained the addition made by the AO u/s 69A of the Act is that the amount of Rs.3,50,000/- was deposited by the assessee on one day in his bank account and on the very next day, the said amount was transferred as un-secured loan to the said Shri Santosh Ramrakhyani and thereby according to the Ld. CIT(A)/NFAC, it is nothing but the un-accounted money of the Mr. Santosh Ramrakhyani which has been routed through the assessee's account in form of un-secured loan. However, for such reasoning also there has been no enquiry made by the Ld. CIT(A)/NFAC. That as per the mandate of the Act u/s 250 clauses (4) and (6) necessary enquiry needs to have been conducted by the Ld. CIT(A)/NFAC and as *quasi judicial* authority he should have examined the genuineness of the loan given and the source of money that has been deposited. However, CIT(A)/NFAC has summarily dismissed the appeal without making speaking order. In other words, such addition has been sustained by CIT(A)/NFAC only on the basis of suspicion and the authority of law to impose tax cannot be held to exist if it is based on mere suspicion. That

even the Ld. CIT-DR was unable to furnish any evidence suggesting that such transaction was nothing but routing of un-accounted money. That, however, the assessee had submitted all the details and evidences before the department including trade license. The revenue has not disputed the salary income earned nor has disputed the business of trading conducted by the assessee. There is no question raised by the revenue doubting the genuinity of the trade license validity placed on record by the assessee. The Ld. CIT(A)/NFAC should have co-related the total income and enquired upon the possible expenses that could have been incurred by the assessee keeping in mind his life style etc., in such way, the reasonableness of sustaining the addition could have been understood. But, in this case, inspite of the documentary evidences placed on record, there has been no reasoning and analysis made by the department and, hence, the nature of addition takes the character of being arbitrary and perverse addition without any factual and legal basis. The revenue has also not brought on record any other un-disclosed source of income, if any, regarding the assessee. Therefore, without dismantling the evidences already placed on record and without providing any finding as to the submissions made by the assessee on the record and source of income and his savings, it is inappropriate to simply sustain the addition. The Ld. CIT(A)/NFAC has fully shifted the onus of submitting the documentary evidences on the shoulders of the assessee, whereas, the fact is that the department has not given any finding with regard to the

documents/evidences already on record nor AO nor CIT(A)/NFAC has conducted necessary examination regarding total income earned, the family expenses, co-relating with the savings that have been done by the assessee. Furthermore, the Ld. CIT(A)/NFAC, power being co-terminus with that of the AO and having the mandate as per section 250 clauses (4) and (6) of the Act should have independently conducted necessary enquiry bringing forth a speaking order. Such exercise is absolutely missing in the findings of the Ld. CIT(A)/NFAC. The addition u/s 69A is therefore misplaced in case of the assessee.

6. In view of the aforesaid, I set-aside the order of the Ld. CIT(A)/NFAC and direct the AO to delete the additions made from the hands of the assessee. That since, the merits are answered in affirmative, all other legal grounds, if any, becomes academic only.

7. As per the above terms, the grounds of appeal raised by the assessee are allowed.

8. In result, the appeal of the assessee is **allowed**.

Order pronounced in open court on 12th day of September, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 12th September, 2025.
HKS, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

//True copy//

Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur