

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.107/DDN/2025  
(ASSESSMENT YEAR: 2015-16)

Ashok Kumar, 19, Sitapur Mazara, Jwalapur, Haridwar, Uttarakhand-249407  PAN-BTUPK9604E <b>(Appellant)</b>	Vs.	Assessment Unit, Income Tax Department.  <b>(Respondent)</b>
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Assessee by	Shri Pankaj Goel, Adv.
Department by	Shri A. S. Rana, Sr. DR
Date of Hearing	08/09/2025
Date of Pronouncement	17/09/2025

**ORDER**

**PER MANISH AGARWAL, AM:**

This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ('the Ld. CIT(A)' for short) in Appeal No. NFAC/2014-15/10271519 dated 10.04.2025 for Assessment Year 2015-16.

2. Brief facts of the case are that the assessee is an agriculturist having no any other source of income than agricultural income. Since, the income from agricultural operations is exempt from tax, he was not obliged to file the return of income. The Assessing Officer based on the information that assessee has deposited a sum of Rs.76,00,000/- in Zila Sahkari Bank Ltd., initiated reassessment proceedings in the case of assessee by recording reasons that income to the extent of Rs.76,00,000/- has escaped assessment in the order passed u/s 148A(d) of the Act. Accordingly, notices u/s 148 was issued on 26.03.2022. In response to which assessee filed return of income on 12.04.2022

declaring total income of Rs.10,00,000/- from agriculture activity and claimed the same as exempt from tax. The Assessing Officer passed the reassessment order wherein he has made the additions on account of agriculture income of Rs.10,00,000/- by treating the same as income from other sources and further made additions of Rs.76,00,000/- being cash deposited during demonetization as unexplained money u/s 69A of the Act. The AO further made additions of Rs.2,67,195/- as against Nil income declared towards bank interest.

3. Aggrieved by the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 10.04.2025 deleted the addition made on account of cash deposited in the bank account by accepting the plea that the said account do not belonged to assessee and further restricted the addition on account of interest to Rs.96,597/- as against Rs. 2,67,195/- made by the AO and uphold the addition of Rs.10,00,000/- made on account of agriculture income treating the same as the income from other sources.

4. Aggrieved by the said order of the Ld. CIT(A), the assessee is in appeal before the Tribunal wherein following grounds of appeal were taken:-

*“1. That the Ld. Commissioner of Income Tax (Appeals) erred both in law and on facts in upholding the addition of Rs. 10,00,000/- as "Income from Other Sources" despite the fact that the appellant is an agriculturist and the income was declared as agriculture income.*

*2. That the Ld. Commissioner of Income Tax (Appeals) erred both in law and on facts by not deleting addition of interest income of Rs. 96,597/- which is below the taxable limit.*

*3. The learned CIT(A) erred in law and on facts in approving the wrong re-opening of the assessing officer.*

*4. The CIT Appeal has erred in law and on facts by confirming the addition on agriculture income even though the case was opened on different facts and information.*

*5. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

5. Heard both the parties and perused the materials available on record. At the outset, the claim of the AR of the assessee was that the case of the assessee was reopened after passing order u/s 148A(d) of the Act dated 26.03.2022 wherein it was held that assessee had deposited cash in the bank account of

Rs.76,00,000/- sources of which was not explained. Since, beginning of the proceedings, assessee's claim was that this account never belonged to assessee and Ld. CIT(A) after considering these facts deleted the additions.

6. The AO made further addition on account of agriculture income by holding the same as income from other sources being unexplained and also made additions towards the bank interest which was not part of the reasons recorded. It was thus claim of the assessee that once the very basis of initiation of proceedings u/s 147 of the Act does not survive, AO has no jurisdiction to consider those issues which are not forming part of the reasons/ satisfaction for reopening. From the perusal of the assessment order as well as appellate order we find that case of the assessee was reopened on the allegation that Rs.76,00,000/- were deposited in cash in bank was unexplained money of the assessee. Once this information was found to be incorrect and addition made on this account was deleted, it is established that reasons for which case of the assessee was reopened has no legs to stand. The AO has no scope to going further on the issues which are not part of the reasons recorded and, thus, any such addition made beyond the reasons is without jurisdiction.

7. The Hon'ble Jurisdictional High Court in the case of Ranbaxy Laboratories Ltd. (supra) has held as under:-

*"18. We are in complete agreement with the reasoning of the Division Bench of Bombay High Court in the case of V. Jaganmohan Rao (supra). We may also note that the heading of section 147 is "income escaping assessment" and that of section 148 "issue of notice where income escaped assessment". Section 148 is supplementary and complimentary to section 147. Sub-section (2) of section 148 mandates reasons for issuance of notice by the Assessing Officer and sub-section (1) thereof mandates service of notice to the assessee before the Assessing Officer proceeds to assess, reassess or recompute escaped income. Section 147 mandates recording of reasons to believe by the Assessing Officer that the income chargeable to tax has escaped assessment. All these conditions are required to be fulfilled to assess or reassess the escaped income chargeable to tax. As per Explanation (3) if during the course of these proceedings the Assessing Officer comes to conclusion that some items have escaped assessment, then notwithstanding that those items were not included in the reasons to believe as recorded for initiation of the proceedings and the notice, he would be competent to make assessment of those items. However, the legislature could not be presumed to have intended to give blanket powers to the Assessing Officer that on*

*assuming jurisdiction under section 147 regarding assessment or reassessment of escaped income, he would keep on making roving inquiry and thereby including different items of income not connected or related with the reasons to believe, on the basis of which he assumed jurisdiction. For every new issue coming before Assessing Officer during the course of proceedings of assessment or reassessment of escaped income, and which he intends to take into account, he would be required to issue a fresh notice under section 148.”*

8. The Hon’ble jurisdictional High Court in the case of CIT vs Adhunik Niryat Ispat Ltd. reported in [2011] 63 DTR 212 (Delhi) has held as under:

*“Reassessment – Scope - Additional reason - Notice issued by AO on the ground that the assessee had accepted accommodation entries in the garb of share capital-During the reassessment proceedings additions made in respect of the credits received from some other parties additions for accommodation entries were made were not found valid and additions were deleted by the Tribunal-Additions in respect of other items which were not part of "reasons to believe" were also not sustainable.”*

9. The Hon’ble jurisdictional high court in the case of *ATS Infrastructure Ltd. vs ACIT* reported in [2025] 166 taxmann.com 61 (Delhi) held that AO cannot be permitted to improve the reasons recorded which form basis for initiating action under section 148A. The relevant observations of the hon’ble high court as contained in para 29 to 32 of the order reads as under:

*“29. In our considered opinion, and bearing in mind the import of Explanation 3 as well as the language in which Section 147 of the Act stands couched, we find no justification to differ from the legal position which had been enunciated in Ranbaxy Laboratories Ltd. We also bear in consideration the said decision having been affirmed and approved subsequently in CIT (Exemption) v. Monarch Educational Society 2016 SCC OnLine Del 6636/[2017] 79 taxmann.com 43/387 ITR 416 (Delhi) and CIT v. Software Consultants 2012 SCC On Line Del 316/[2012] 21 taxmann.com 155/211 Taxman 120/341 ITR 240 (Delhi).*

*30. We thus, come to the conclusion that the enunciation with respect to the indelible connection between Section 148A(b) and Section 148 A(d) of the Act are clearly not impacted by Explanation 3. As we read Sections 147 and 148 of the Act, we come to the firm conclusion that the subject of validity of initiation of reassessment would have to be independently evaluated and cannot be confused with the power that could ultimately be available in the hands of the AO and which could be invoked once an assessment has been validly reopened.*

*31. Explanation 3, or for that matter, the Explanation which presently forms part of Section 147, would come into play only once it is found that the power to reassess had been validly invoked and the formation of opinion entitled to be upheld in light of principles which are well settled. The Explanations would be applicable to issues which may come to the notice of the AO in the course of proceedings of reassessment subject to the supervening requirement of the reassessment action itself having been validly initiated.*

32. Explanation 3, cannot consequently be read as enabling the AO to attempt to either deviate from the reasons originally recorded for initiating action under Section 147/ 148 of the Act nor can those Explanations be read as empowering the AO to improve upon, supplement or supplant the reasons which formed the bedrock for initiation of action under the aforementioned provisions.”

10. Similarly, the Hon’ble Bombay High Court in the case of CIT vs Jet Airways (I) Ltd. reported in [2011] 331 ITR 236 (Bom.) has held that “it is not open to AO to independently assess some income other than the income referred in section 148 for which reason was recorded”. The relevant head note of the judgement reads as under:-

*“Section 147 of the Income-tax Act, 1961 Income escaping assessment - Non-disclosure of primary facts Assessment years 1994-95 and 1995-96 Whether an Explanation to a statutory provision is intended to explain its content and cannot be construed to override it or to render substance and core nugatory Held, yes Whether after insertion of Explanation 3 to section 147 by Finance (No. 2) Act, 2009, with effect from 1-4-1989, section 147 has an effect that Assessing Officer has to assess or reassess income ('such income') which escaped assessment and which was basis of formation of belief and if he does so, he can also assess or reassess any other income which has escaped assessment and which comes to his notice during course of proceedings Held, yes Whether, however, if after issuing a notice under section 148, he accepts contention of assessee and holds that income, for which he had initially formed a reason to believe that it had escaped assessment, has, as a matter of fact, not escaped assessment, it is not open to him to independently assess some other income; if he intends to do so, a fresh notice under section 148 would be necessary, legality of which would be tested in event of a challenge by assessee - Held, yes  
Words and phrases: The words 'and also' as occurring in section 147 of the Income-tax Act, 1961.”*

11. In view of the facts of the instant case and as discussed above and by respectfully following the judgement of Hon’ble Delhi High Court and Hon’ble Bombay High Court, we are of the considered view that the authorities below had exceeded their jurisdiction of making additions on the issues which are not forming part of the reasons recorded for re-opening the assessment when it was found that the reasons recorded are not correct and additions made based on such incorrect reasons does not survived. Therefore, no additions could be made *dehorse* the reasons recorded for initiating the proceedings u/s 147 of the Act and the same are hereby deleted. Accordingly, the grounds of appeal No. 3 & 4 taken by the assessee are allowed.

12. In the result, the appeal of the assessee is allowed.  
Order pronounced in the open Court 17.09.2025.

Sd/-  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

Dated:17.09.2025

*PK/Ps*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, DEHRADUN