



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

BEFORE SHRI KUL BHARAT, VICE PRESIDENT

ITA Nos. 158 to 161/JAB/2023
Assessment Years: 2016- & 2017-18

Sharda Bal Kalyan Samiti 151, Galgala, Tilak Ward, Kotwali, Jabalpur-482001.	v.	Income Tax Officer, Exemption Annexy Building, Aayakar Bhawan, Mission Compound, Madhya Pradesh-482001.
TAN/PAN:AADAS9742D		
(Appellant)		(Respondent)

Appellant by:	Dr. H. S. Modh, Advocate
Respondent by:	Shri Shravan Kumar Meena, CIT(DR)
Date of hearing:	15 09 2025
Date of pronouncement:	17 09 2025

ORDER

PER KUL BHARAT, VICE PRESIDENT.:

This bunch of four appeals by the assessee in ITA. Nos. 158 & 159/JAB/2023, pertaining to the A.Y. 2016-17 and ITA. Nos. 160 & 161/JAB/2023, pertaining to A.Y. 2017-18 against the different orders of learned Commissioner Income Tax (Appeals) [hereinafter referred as the "Ld.CIT(A)"/National Faceless Appeal Centre (NFAC) all dated 10.11.2023. Since the identical issues and grounds have been raised for adjudication, all these appeals were heard together and are being disposed of by way of common order for the sake of convenience and brevity. In all these appeals, the assessee has taken following grounds of appeal: -

ITA. No. 158/Jab/2023 for AY. 2016-17

- 1. That the NFAC has grossly erred in facts and circumstances of the case to confirmed the income at Rs.34,07,761/- against the returned income at Rs.Nil.*
- 2. That the order passed u/s 147 of IT Act, 1961 by invoking the provision of 148 of IT Act, is not justified.*

3. That the addition confirmed considering 8% of the gross receipt as income without any basis is unjustified.
4. That the Additional made at Rs.34,07,561/- considering the filing of Form 10B delayed without considering the notification issued by CBDT for condoning the notification issued by CBDT for condoning delay is erroneous and bad in law.
5. That the benefit denied for allowing benefit of Sec. 11 of IT Act 1961, is not justified.
6. That the confirmation of addition at Rs.34,07,561/- without adjudicating the documents and explanation available on portal filed during the year under consider is arbitrary and bad in law.
7. That the assessee craves leave to raise any other ground/s on or before the date of hearing to prove that the order is bad.”

ITA. No. 159/Jab/2023 for AY. 2016-17

- “1. That the NFAC has grossly erred in facts and circumstances of the case to confirmed the income at Rs.34,07,561/- against the returned income at Rs.Nil.
2. That the order passed u/s 147 of IT Act, 1961 by invoking the provision of 148 of IT Act, is not justified.
3. That the addition confirmed considering 8% of the gross receipt as income without any basis is unjustified.
4. That the Additional made at Rs.34,07,561/- considering the filing of Form 10B delayed without considering the notification issued by CBDT for condoning the notification issued by CBDT for condoning delay is erroneous and bad in law.
5. That the benefit denied for allowing benefit of Sec. 11 of IT Act 1961, is not justified.
6. That the confirmation of addition at Rs.34,07,561/- without adjudicating the documents and explanation available on portal filed during the year under consider is arbitrary and bad in law.
7. That the assessee craves leave to raise any other ground/s on or before the date of hearing to prove that the order is bad.”

ITA. No. 160/Jab/2023 for AY. 2017-18

1. That the NFAC has grossly erred in facts and circumstances of the case to confirmed the income at Rs. 30,41,925/against the returned income at Rs. NIL.
- 2 That the assessment proceeding completed after regularizing the original notice issued U/s 148 of IT Act, 1961, dated 31/03/2021 after issue of notice U/s 148A of IT Act, 1961, dated 02/06/2022 and notice U/s 148 of IT Act, 1961, dated 20/07/2022 when the original notice U/s 148 of IT Act, 1961, dated 31/03/2021 has already been disposed-off by passing an order dated 31/03/2022, hence the proceeding U/s 148 of IT Act, 1961, dated 20/07/2022 is erroneous and bad in law.

3 That the addition confirmed at Rs.18,22,115/- considering 8% of the gross receipt at Rs.2,27,76,440/- as income without any basis is unjustified.

4 That the NFAC Center has added Rs.12,19,810/- deposited in bank for which no specific query has been raised at any stage is erroneous and bad in law.

5 That the Addition made at Rs.34,01,925/- considering the filing of Form 10B delayed without considering the notifications issued by CBDT for condoning delay is erroneous and bad in law.

6 That the benefit denied for allowing benefit of Sec. 11 of IT Act, 1961, is not justified.

7 That the confirmation of addition at Rs.34,01,925/- without adjudicating the documents and explanation available on portal filed during the year under consider is arbitrary and bad in law.

8. That the provision applied u/s 115BBE of IT Act, 1961, is not applicable, hence it is arbitrary, bad in law and unjustified.

9. That the assessee craves leave to raise any other ground/s on or before the date of hearing to prove that the order is bad.”

ITA. No. 161/Jab/2023 for AY. 2017-18

“1. That the NFAC has grossly erred in facts and circumstances of the case to confirmed the income at Rs. 30,41,925/against the returned income at Rs. NIL.

2 That the assessment proceeding completed after regularizing the original notice issued U/s 148 of IT Act, 1961, dated 31/03/2021 after issue of notice U/s 148A of IT Act, 1961, dated 02/06/2022 and notice U/s 148 of IT Act, 1961, dated 20/07/2022 when the original notice U/s 148 of IT Act, 1961, dated 31/03/2021 has already been disposed-off by passing an order dated 31/03/2022, hence the proceeding U/s 148 of IT Act, 1961, dated 20/07/2022 is erroneous and bad in law.

3 That the addition confirmed at Rs.18,22,115/- considering 8% of the gross receipt at Rs.2,27,76,440/- as income without any basis is unjustified.

4 That the NFAC Center has added Rs.12,19,810/- deposited in bank for which no specific query has been raised at any stage is erroneous and bad in law.

5 That the Addition made at Rs.34,01,925/- considering the filing of Form 10B delayed without considering the notifications issued by CBDT for condoning delay is erroneous and bad in law.

6 That the benefit denied for allowing benefit of Sec. 11 of IT Act, 1961, is not justified.

7 That the confirmation of addition at Rs.34,01,925/- without adjudicating the documents and explanation available on portal filed during the year under consider is arbitrary and bad in law.

8. That the provision applied u/s 115BBE of IT Act, 1961, is not applicable, hence it is arbitrary, bad in law and unjustified.

9. That the assessee craves leave to raise any other ground/s on or before the date of hearing to prove that the order is bad.”

2. At the outset, the Ld. Counsel for the assessee contended that the Assessing Authority has erroneously passed two assessment orders for the same assessment year. Therefore, he contended that the second order passed by the Assessing Authority cannot be sustained in the eyes of law. With regard to the first assessment order dated 31.03.2022, it is stated that the assessment order was framed *ex parte* to the assessee. There was no effective representation on behalf of the assessee since adequate opportunity was not given by the Assessing Officer. He further submitted that the matter may be restored back to the file of the Assessing Officer in respect of the assessment order dated 31.03.2022. And the second assessment order dated 29.05.2023 may be quashed being void. On the other hand, the Ld. Departmental Representative (DR) for Revenue has supported the orders of the lower authorities.

3. Heard the Ld. Representatives of the parties and perused the material available on record. It is seen from the records that in the assessment order dated 31.03.2022 for A.Y. 2016-17 passed u/s 147 r.w.s 144 read and section 144B of the Income Tax Act, 1961 (“Act”, for short), the PAN [Permanent Account Number] mentioned is ‘AADAS9742D’ i.e. subject matter of ITA. No.158/JAB/2023 and another assessment order dated 29.05.2023 for A.Y. 2016-17 u/s 147 r.w.s 144 read with section 144B of the Act, the PAN mentioned in the assessment order is ‘AADAS9742D’ i.e. in ITA. No. 159/JAB/2023 is the same. However, it is mentioned that the assessee was allotted new PAN No. ‘AAKAS5852P’ in both the assessment orders. It is further stated that the basis for making the impugned addition is that

the assessee failed to file return of income and also Form No. 10B. The contention of the assessee is that the subsequent orders passed by the Assessing Authority for the same issue cannot be sustained in the eyes of law. In the order of the Ld. CIT(A) basis for dismissing the appeals is identical and the appeals have been dismissed on the grounds that the assessee had not furnished any evidence/grounds for condoning the delay. We find that the earlier order was passed *ex parte* to the assessee. However, both the assessment orders passed u/s 147 r.w.s 144 read with section 144B of the Act by the Assessing Officer. Under these facts for the same issue, two different assessment orders cannot be sustained in the eyes of law. Considering the totality of the facts, I hereby set aside the impugned orders in ITA. Nos. 158 & 159/JAB/2023 for A.Y. 2016-17 and restore the assessment to the file of the Assessing Authority to frame *de novo* assessment in accordance with law. Needless to say that the AO would provide adequate opportunity for hearing to the assessee. The grounds raised in the appeal are allowed for statistical purposes.

4. Now, coming to the assessee's appeal in ITA. Nos. 160 & 161/JAB/2023 for A.Y. 2017-18. The facts and the grounds are identical except to the figures, the basis of dismissal of the appeals is the same as were in ITA. Nos. 158 & 159/JAB/2023 for A.Y. 2016-17. The Ld. Representatives of the parties have adopted the same arguments as in ITA. Nos. 158 & 159/JAB/2023 in these appeals also. Therefore, I deem it expedient to set aside the assessment for the same reasoning as in ITA. Nos. 158 & 159/JAB/2023 for A.Y. 2016-17 and same shall apply *mutatis mutandis* to ITA. Nos. 160 & 161/JAB/2023 for A.Y. 2017-18. The AO is hereby directed to make *de novo*



assessment *in* accordance with law. All the grounds of appeal of the assessee are allowed for statistical purposes.

5. In the result, appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 17/09/2025.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 17/09/2025

Vijay Pal Singh, (Sr. PS)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar
ITAT, Jabalpur