आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.462/RPR/2025

निर्धारण वर्ष / Assessment Year : 2017-18

Priyesh Singhania
730/1, Radha Kunj, Opposite VIP Guest House,
Pahuna, Shankar Nagar Main Road,
Raipur (C.G.)-492 001
PAN: AOUPS7838A

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Circle-1(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Mahendra Kumar Agrawal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 17.09.2025

घोषणा की तारीख / Date of Pronouncement : 18.09.2025

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 26.03.2025 for the assessment year 2017-18 as per the following grounds of appeal:

> "1. The order of Ld. CIT(A) is bad in law as the issue in the case is surrender of insurance policy and point of determination on taxability and that the addition has been made on wrong appreciation of facts and in application of inappropriate legal provisions, in absence of charging provisions under the Act. Therefore, the order is bad in law.
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> 2. The Hon'ble Bench has already dealt with the similar issue ire the case of Mitesh Singhania vs. ITO, Ward -1(2), Raipur, ITA No. 410/RPR/2025 AY 2017-18, order pronounced on dt. 22.07.2025 and provided full relief to the Appellant.
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> 3. The Ld. CIT (A) erred in law and in facts in confirming the action of the CPC for making adjustment on the basis of information available in the Form 26AS related to TDS u/s.194DA as the provisions of Section 143(1)(a)(vi) stipulates that addition of income can be made but the refund of the maturity proceeds of Life Insurance Policy is not an income.
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> 4. The Ld. CIT(A) erred in not adjudicating the submission of the Appellant that the CPC, Bengaluru, exceeded the scope of permissible adjustments u/s. 143(1) by making an addition that required legal interpretation of the respective provisions under the Act and needed factual verification of facts. The issue under the Appeal is outside the purview of prima facie adjustments permissible u/s.143(1). Reporting of TDS deducted u/s.194DA in Form 26AS is an information and not the conclusive evidence of taxability therefore the order of the Ld. CIT(A) is bad in law.
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> 5. The Ld. CIT(A) failed to appreciate that the mere omission to claim exemption u/s.10(10D) in the return does not ipso facto justify the taxation of the entire maturity proceeds.

> 6. The Ld. CIT(A) erred in law, in facts and jurisprudence by not passing a reasoned order and dealing with the grounds raised before him therefore the order is bad in law.
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> 7. The Ld. CIT(A) further erred in disposing of the appeal without granting an opportunity of personal hearing, despite a specific written request thereby violating the principles of natural justice as well as the mandate of Central Government Gazette Notification no. S.0.2352(E) dated 29th May, 2023.
>
> 8. The appellant craves leave to add, amend, modify, substitute, or withdraw any of the above grounds of appeal at the time of hearing."

2. At the very outset, the Ld. Counsel for the assessee submitted that the appeal is time barred by 57 days. Elaborating the reasons leading to the said delay, the Ld. Counsel for the assessee has filed condonation petition a/w. affidavit dated 28.07.2025. It was submitted by the Ld. Counsel that a rectification application u/s. 154 r.w.s 250 of the Act was filed by the assessee and the assessee was under bonafide belief that the said rectification application u/s.154 r.w.s. 250 would be disposed of within a reasonable time and waited for its outcome before preferring an appeal before the Tribunal and in such process, the delay of 57 days caused by the assessee.

3. The Sr. DR did not raise any objection regarding the condonation of delay.

4. We have examined the contents of the condonation application and find that the reasons for delay cannot be attributed to any malafide or

deliberate conduct of the assessee, if any. Also there is no evidence regarding any deliberate or malafide conduct of the assessee as regards the delay involved in filing of the present appeal before the Tribunal and whatever delay has been caused, was absolutely circumstantial beyond any control of bonafide assessee. In so far the delay is concerned, taking guidance from the judicial pronouncements viz. (i) **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025**, (ii) **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025**, and (iii) **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025,** we condone the delay of 57 days involved in the captioned appeal.

5. Both the parties unanimously conceded that the facts and issues involved in the present appeal are exactly identical with the facts in the case of **Mitesh Singhania Vs. ITO, Ward-1(2), Raipur, ITA No.410/RPR/2025, dated 22.07.2025.** The Tribunal in the aforesaid case had dealt with the similar issue in a detailed manner in favour of the assessee observing as follows:

> "3. In this case, intimation has been finalized as per assessment u/s. 143(1) of the Income Tax Act, 1961 (for

short 'the Act') wherein certain disallowance has been made. The relevant facts in this regard are extracted as follows:

"Facts involved in the issue is that the appellant is an individual and had taken a life insurance policy of Reliance Life Insurance issued on 31.03.2011. The sum assured was for Rs.20,00,000/- and single premium paid in the year of issue was Rs.5,00,000/-. During the year relevant to AY-2017-18, the appellant surrendered the policy and received maturity proceeds of Rs.7,41,718/-. Tax was also deducted at source u/s 194DA of the Act on such maturity proceeds. The appellant had claimed the receipts as exempt from tax u/s 10(10D) of the Act but while processing the return u/s 143(1), CPC included the amount within total income. As per the provisions of section 10(10D)(c) of the Act, any amount received under an insurance policy issued in between 01.04.2003 and 31.03.2012, in respect of which premium payable for any of the year during the term of the policy exceeds 20% of the actual capital sum assured shall not be eligible for exemption under this section. In the appellant's case, the policy was issued on 31.03.2011, capital sum assured was Rs.20,00,000/- and single premium payable in the first year was Rs.5,00,000/-. Since the one-year premium payable was more than 20% of the capital sum assured, the maturity proceeds receivable on such policy was not eligible for exemption u/s 10(10D) of the Act. Form 26AS issued reflected that TDS was deducted u/s 194DA which is applicable in the case where the maturity proceeds are not eligible for exemption u/s 10(10D). In view of the same, CPC included the amount of Rs.7,41,718/- within taxable income while' processing the return u/s 143(1) of the Act."

4. The Ld. CIT(Appeals)/NFAC had upheld the addition made by the CPC/AO, Bengaluru. The submission of the assessee as extracted in the order of the Ld. CIT(Appeals)/NFAC are culled out as follows:

"4. SUBMISSION OF THE APPELLANT: During the appellate proceedings, the appellant has furnished online written submission.

"For ready reference the brief of the facts of the case is submitted that the appellant is an individual, assessed with under /TO- Ward 1(2), Raipur (CG). The Return of Income for AY 2017-18 was filed on dt. 25.03.2018. During the year the assessee received LIC maturity proceeds of Rs.7,41,718/-

from Reliance Nippon against a one time policy taken on 31.03.2011 and surrendered after 5 years. Such amount was not reported In the ITR by the assessee since it was exempt under the then provisions of section 10(10D). However, 154 return was also filed on dt. 08.03.2019 disclosing the Exempt income u/s 10(10D). It is also submitted that the cap of 10% of Assured sum as premium amount was amended through Finance Act, 2012 w.e.f. 01.04.2013. The Provision of section 80C(5) is not applicable in this case as the policy was surrendered after more than 5 years on 30.04.2016. M/s Reliance Nippon had deducted TDS u/s 194DA and based on such information in 26AS Statement, CPC made an upward adjustment while processing the Return u/s 143(1) and raised Demand, hence this Appeal Further to your specific queries reply is as under:

Q1. Whether any rectification order u/s 154 against the Intimation u/s 143(1) or the subsequent order u/s 154 for the present year has been passed subsequent to filing of this appeal. If yes, the conclusion drawn therein with a copy of the order.
Ans: No, neither rectification order u/s 154 against the intimation u/s 143(1), nor subsequent order u/s 154 has been passed subsequent to filing of this appeal for the year under consideration.

Q2. Whether any regular assessment order u/s 143(3) has been passed for the present year subsequent to filing of this appeal. If yes, the conclusion drawn therein with a copy of the order.

Ans: No, the appellant was not scrutinized under section 143(3), hence no order.

Q3. Whether any intimation was given to you as per the 1st proviso to sec. 143(1)(a) before making adjustment to returned income and evidence thereof. If yes, copy of such intimation.

Ans: Yes, intimation in terms of 1st proviso to sec. 143(1)(a) before making adjustment was given to the appellant on dt.21.05.2018 but the exact reasons and details as to why such addition was proposed was missing. Copy of such intimation is attached herewith as Annex-1. From the details of such communication, it can be seen that no E-mail ID has been mentioned in such Communication.

Q4. If intimation as mentioned above in (3) was given to you whether you had complied to it and if yes, copy of such compliance.

Ans: The appellant filed rectified returns u/s 154 but it was processed with same results and Copy of the same was not received by the appellant nor it is Downloadable form ITBA.

Q5. The relevant portion of TAR and / or ITR where the facts and figures are reported on the basis of which the adjustment was made.

Ans: The appellant had filed rectified return u/s 154 showing the amount under the issue as Exempt Income at Schedule El: Details of Exempt Income at S. No. 5-others at Rs. 26,68,946/-, the break-up of Items of Exempt income S. No. 5 Others has been tabulated below which includes Exempt income of Rs. 7,41,718/- in the issue. Further, the relevant extract of 154 Return and Original return has been reproduced below:

Full Copies of Original return and 154 Return has also been attached as Annex-2.

The details of Exempt income as filed in Original ITR and Rectified ITR u/s 154 are as under:

S. No.	Particulars	Original Return	154 Return
1	Exempt Profit from Partnership	16,94,603	16,94,602
2	Exempt interest on PPF	2,31,269	2,31,269
3	Minor's Income- Arnav Singhania	1,357	1,357
4	Exempt LIC Proceeds u/s 10(10D)	-	7,41,718
	Total	19,27,229	26,68,946

Ground wise submissions are as under:

1: The DCIT, CPC, Bengaluru, erred in law and on facts by making an upward adjustment of entire LIC maturity proceeds of Rs. 7,41,718/- received on a policy taken prior-to 01.04. 2012.

1.1 As per section 10(10D) of the Act, maturity proceeds of single premium insurance policy issued before 01.04.2012 were completely exempt irrespective of the Premium paid to sum assured ratio. It may be noted that the policy was issued on 31.03.2011 and single premium of Rs.5,00,000/- was paid.

1.2 Further, the policy was surrendered on 30.04.2016, i.e., after more than 5 years. Thus, the provision of section 80C (5) was also not applicable, as per the provisions of section 80C (5), if the premium paid was deemed to be income of the assessee if the policy is cancelled within 2 years from the date of the commencement of the policy. Therefore, the appellant is not hit by the such provisions too.

1.3 CPC has exceeded in its jurisdiction and erred in making adjustments which is not within the purview of CPC as any addition involving legal interpretation and factual clarification falls beyond the scope of prima facie adjustments permissible under ub clause (0 to (vi) of section 143(1)(a). The impugned addition made by the CPC is bad in law. If at all the observation of the CPC had to be processed, the case could have been selected for scrutiny and an assessment under Section 143(3) ought to have been made to Assessee the correct income.

While making such contention the appellant had relied on the Decision of Hon'ble ITAT Bench Kolkata in the case of Anita Seth Vs. DCIT, CPC, Bengaluru ITA No.109/Kol/2022 AY 2017-18 Pronounced on dated 18.04.2022. The ratio of the case is applicable in this case. In the decided case CPC made adjustment based on information in 26AS Statement about TDS and the Hon'ble bench decided that n issue, which raises a question of fact and can be done only on scrutiny ssessment u/s. 143(3) of the Act or by reopening of assessment u/s. 147 of the Act.

1.4 It is an established legal position that an addition made by the CPC under Section 143(1) based on Form 26AS is beyond its jurisdiction, as it required adjudication of legal provisions under Section 10(10D). CPC is only empowered to make prima facie adjustments, and any issue requiring interpretation of law or factual verification must be addressed through scrutiny assessment under

Section 143(3). As the adjustment made by CPC was not a simple computational correction but required legal interpretation, it was beyond the permissible scope of Section 143(1) processing.

1.5 In view of above facts and legal provision, the upward adjustment of the LIC maturity proceeds made by the CPC is completely erroneous. It had also not reduced an amount of Rs.5.00 Lacs which was paid as premium to M/s Reliance Nippon. The maturity amount includes such Rs.5.00 Lacs paid by the appellant. Therefore, the addition made by CPC is without authority, erroneous, unjustified and liable to be deleted.

1.6 The LIC policy schedule indicating the date of issuance and Form-16A indicating the date of maturity along with maturity amount are attached for your ready reference and records. Annex-4(A) and 4(B).

1.7 Article 265 of the Constitution lays down that no tax can be levied and collected except by authority of law. Hence the additions made by CPC is without authority of law and no tax can be collected on exempt income u/s 10(10D).

2: The CPC erred in sharing the details in the annexure to intimation under section 43(1). It failed to provide the logic and basis of upward revision made.

2.1 The CPC, Bengaluru, erroneously made an upward adjustment in the intimation under Section 143(1) without providing any explanation, computation, or legal basis in the annexure to intimation order. Any addition without a show-cause and without opportunity of being heard, without a reasoned order is in violation of principles of Natural Justice and therefore suffers from procedural defects for processing the ITR filed by the assessee-appellant. It had no opportunity to justify and contest the adjustment so made.

2.2 Since no reasoned query was given the appellant was prevented from countering the addition proposed therefore it was violation of Natural Justice.

3: The DCIT, CPC, Bengaluru, erred in law and facts of the case in relying upon the information available on 26AS statement as the insurance company wrongly deducted TDS under section 194DA in spite of the fact that whole sum was exempt under section 10(10D) and there was no element of income in the proceeds they paid.

3.1 In this case, as submitted above in the ground 1, the LIC maturity proceeds of Rs.7,41,718/- was completely exempt u/s 10(10D) as the restrictive provisions of Section 10(10D) were not applicable prior to 01.04.2012 and in the facts of the case it is not hit by Section 80C (5). M/s Reliance Nippon was not liable to deduct TDS on the LIC maturity proceeds u/s 194DA and because of their mistake the appellant cannot be Penalized.

3.2 Form 26AS merely reflects tax deducted at source (TDS) but does not determine whether an income is actually taxable. Form 26AS is only a tool for reconciliation and cannot be treated as conclusive proof of income receipt.

3.3 Thus, CPC erred in relying upon the information available on the 26AS statement that the Gross amount is taxable and ignored to verify whether it is exempt u/s.10(10D).

3.4 Therefore, the addition made is liable to be deleted.

4: Necessary direction may be made to the concerned authorities against the wrongful deduction of TDS made by the insurance company which caused hardship to the Appellant.
4.1 It is a settled principle that TDS should only be deducted where expressly mandated by law. The wrongful deduction of TDS on exempt maturity proceeds by the insurance company reflects a misinterpretation of the applicable provisions and a failure to exercise due diligence.

4.2 Additionally, relief should be granted to the Appellant, either by way of a refund or appropriate adjustment, to mitigate the financial hardship caused due to the erroneous deduction.

5: The addition made by CPC under section 143(1) is erroneous and the demand raised is liable to be deleted.

5.1 As submitted above, the LIC maturity proceeds received by the Appellant was completely exempt u/s 10(10D). Hence the addition made by CPC u/s 143(1) and demand raised on account of the same is erroneous and liable to be deleted.

6. The appellant craves to leave, add, substitute, amend, alter or modify any of the grounds of appeal either before or at the time of hearing of the case.6.1 At this juncture the Appellant has nothing to offer any explanation for such ground of appeal. However, it may do so if situation so warrants.

We request you to kindly consider the above submissions while adjudicating the appeal and allow appropriate relief to the appellant. In case your good office believes that some document or clarifications is needed an opportunity of Personal Hearing may be allowed."

5. That based on the aforesaid submission and the assessment completed u/s.143(1) of the Act by the CPC/A.O, Bengaluru, the Ld. CIT(Appeals)/NFAC has held and observed as follows:

"5. DECISION:-

5.1 I have carefully gone through the Intimation u/s 143(1), the grounds of appeal and submission made by the appellant in this regard. Briefly stating facts of the case is that the appellant filed return of income which was processed u/s 143(1) by CPC making certain adjustments over and above the returned income. The only issue involved in this case is that the appellant had received maturity proceeds from life insurance policy upon its surrender which was claimed as exempt u/s 10(10D) of the I.T. Act in the return of income but it was included in total income in the Intimation u/s 143(1).

5.2 Before going into the merits of the issue involved, the matter regarding delay in filing of appeal is discussed. The impugned intimation u/s 143(1) was passed on 25.09:2018. The appellant claimed to have received it on 14.09.2019. He was therefore required to file appeal on or before 14.10.2019. But the appeal was filed on 13.02.2025 thereby with a delay of 1950 days. The appellant has Wed separate petition for condoning the delay in filing appeal. The grounds as stated by appellant are found to be genuine and acceptable. The delay in filing of appeal is therefore condoned and appeal admitted.

5.3 The appellant has raised several grounds of appeal, all of which are however against the single issue of taxing the maturity proceeds received from life insurance policy upon its surrender. Facts involved in the issue is that the appellant is an individual and had taken a life insurance policy of Reliance Life Insurance issued on 31.03.2011. The sum assured was for Rs.20,00,000/- and single premium paid in the year of issue was Rs.5,00,000/-. During the year relevant to AY-2017-18, the appellant surrendered the policy and received maturity proceeds of Rs.7,41,718/-. Tax was also

deducted at source u/s 194DA of the Act on such maturity proceeds. The appellant had claimed the receipts as exempt from tax u/s 10(10D) of the Act but while processing the return u/s 143(1), CPC included the amount within total income. As per the provisions of section 10(10D)(c) of the Act, any amount received under an insurance policy issued in between 01.04.2003 and 31.03.2012, in respect of which premium payable for any of the year during the term of the policy exceeds 20% of the actual capital sum assured shall not be eligible for exemption under this section. In the appellant's case, the policy was issued on 31.03.2011, capital sum assured was Rs.20,00,000/- and single premium payable in the first year was Rs.5,00,000/-. Since the one-year premium payable was more than 20% of the capital sum assured, the maturity proceeds receivable on such policy was not eligible for exemption u/s 10(10D) of the Act. Form 26AS issued reflected that TDS was deducted u/s 194DA which is applicable in the case where the maturity proceeds are not eligible for exemption u/s 10(10D). In view of the same, CPC included the amount of Rs.7,41,718/- within taxable income while' processing the return u/s 143(1) of the Act. The appellant claimed that the impugned Intimation u/s 143(1) did not mention exact reason for making the addition. In this regard, it is to be stated that CPC.2 portal reveals that a prior intimation as per 1st proviso below section 143(1)(a) was issued to the appellant by CPC vide communication reference no. CPC/1718/G22/1805349956 dated 12.07.2018 detailing therein the proposed adjustments and the reasons thereof. It is therefore not correct that the reasons for adjustment was not mentioned in the Intimation. The appellant has also quoted the provisions of section 80C(5) of the Act. However, it is stated that such provisions are not applicable in this case. The addition made by the CPC u/s. 143(1) is therefore upheld and appeal dismissed."

6. The simple point of contention was whether exemption u/s. 10(10D) of the Act would be applicable in the present case. In this case addition has been made since single premium payable in the first year was Rs.5 lacs which is more than 20% of the actual capital sum assured and accordingly, was not allowable for exemption. However, the case here is not of payment of any premium but is a case where insurance policy has been surrendered by the assessee and in lieu of such surrender an amount has been received by the assessee.

7. The Ld. Sr. DR also conceded to these facts on record and agreed that indeed it is case of surrender of policy and point of determination should not have been based on premium paid and percentage therein. Furthermore, in this context, it would be pertinent to extract the relevant provision of Section 10(10D) of the Act which reads as follows:

"(*10D*) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

(a) any sum received under sub-section (3) of section 80DD or sub-section (3) of section 80DDA; or

(b) any sum received under a Keyman insurance policy; or

(*c*) any sum received under an insurance policy issued on or after the 1st day of April, 2003 but on or before the 31st day of March, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds twenty per cent of the actual capital sum assured; or

(*d*) any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten per cent of the actual capital sum assured:"

8. The Ld. Sr. DR had submitted that the present matter entails as per Section 10(10D) sub-clause (c) of the Act which suggests ".....in respect of which the premium payable.....". Essentially the determination whether such receipt from insurance policy would form part of the total income or not is based on the premium payable. However, the facts emanating from record are that the assesse had surrendered entire insurance policy and the said provision of Section 10(10D) of the Act does not encompass within its boundary of such facts which pertains to the assessee before this bench. In a recent decision of the Co-ordinate Bench of Delhi in the case of **Sanjeev Kumar c/o M/s Raj Kumar & Associates vs. ITO Ward 2(3)(2), Bulandshahr,** reported in **2023(10) TMI 1027-ITAT Delhi** on the same issue of applying wrong provision of the Act, it was observed and held as follows:

> "14. In view of foregoing discussion, I reach to a logical conclusion that the complete cash book statement clearly

explains the source of cash deposit to the bank account of assessee, wherein the assessee has not only included cash receipts as salary and capital withdrawal from two partnership firms M/s Umang Beverages and M/s Mohan Oil & Cattle Feed and a cash salary from Bihar Milk Foods Pvt. Ltd. and has also reduced the amount of drawings for household expenses. The copy of return of income of wife of assessee Smt. Shalini and father of assessee Shri Kalu Mal co-jointly established that the other family members of assessee are also earning and contributing towards household expenses. Therefore, in my humble understanding the source of cash deposit during demonetization to the bank account of assesses is properly explained by the assessee by way of self speaking documentary evidence and explanation. Secondly, the AO has made addition u/s 69 of the Act which pertains to unexplained investments, whereas the assessee has not made any investment either in movable or any immovable property during the relevant period by way of using cash amount. The Ld.CIT(A) though has given credit of 25% of Impugned cash deposit confirming the remaining part of addition but there is no logic of this segregation. From the relevant operative part of first appellate order, I also note that the Ld.CIT(A) has upheld the part addition without mentioning any charging section and impliedly adopting section 69 of the Act in the line of assessment order. Therefore, respectfully following the proposition rendered by the Hon'ble Jurisdictional High Court of Allahabad in the case of Sarika Jain (supra). I have no hesitation to hold that the addition made by the AO by mentioning incorrect and irrelevant charging section is not sustainable and valid being bad in law. Accordingly, grounds of assessee are allowed and AO is directed to delete the entire addition.

15. In the result, appeal of the assessee is allowed."

9. Similarly, in the decision of **Hon'ble High Court of Allahabad** in the case of **Smt. Sarika Jain Vs. The Commissioner of Income Tax, Bareilly and Another,** reported in **(2018) 407 ITR 254 (All)** which decision was referred to and applied in the earlier decision of the Co-ordinate Bench of Delhi (supra), the Hon'ble High Court of Allahabad held as follows:

"In the present case, it is apparent that the subject matter of the dispute all through before the Tribunal in appeal was only with regard to the addition of alleged amount of the gift received by the appellant-assessee as his personal income

> under Section 68 of the Act and not whether such an addition can be made under Section 69-A of the Act.
>
> In view of the above, it can safely be said that the Tribunal travelled beyond the scope of the appeal in making the addition of the said income under Section 69-A of the Act. It may be worth noting that the Tribunal has recorded a categorical finding that "it is clear that under the provisions of Section 68, the addition made by the Assessing Officer and sustained by the CIT (Appeals) cannot be sustained, meaning thereby that the Tribunal was of the opinion that the Assessing Officer and the CIT (Appeals) committed an error in adding the aforesaid amount in the income of the appellant-assessee under Section 68 of the Act.
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> In view of the above, when the said income cannot be added under Section 68 of the Act and the Tribunal was not competent to make the said addition under Section 69-A of the Act, the entire order of the Tribunal stand vitiated in law.
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> Accordingly, we answer the question of law, as framed above, in favour of the appellant-assessee and against the Revenue and hold that the Tribunal was not competent to make any addition under Section 69-A of the Act and as the same was subject matter of the appeal before it."
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> 10. Considering the totality of the facts, I am of the view that since entire addition has been made on the wrong appreciation of facts and inappropriate application of legal provision, therefore, such addition are in the nature of perverse, arbitrary and bad in law and is liable to be deleted. I order accordingly."

6. Considering the totality of the facts and respectfully following the aforesaid order (supra), we are of the view that since entire addition has been made on the wrong appreciation of facts and inappropriate application of legal provision, therefore, such addition are in the nature of perverse, arbitrary and bad in law and is liable to be deleted. We order accordingly.

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

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

Order pronounced in the open court on 18th day of September, 2025.

Sd/-	Sd/-
G. D. PADMAHSHALI	**PARTHA SARATHI CHAUDHURY**
(ACCOUNTANT MEMBER)	**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 18th September, 2025.
SB, Sr. PS

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.