

**IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR "SMC" BENCH :: NAGPUR**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No. 447/NAG/2024
(Assessment Year : 2013-14)**

Yogesh Shrikisan Agrawal, Malguzar Compound, Ganeshnagar, Gondia-441601. PAN: ADTPA 0913 C	Vs.	ITO, Ward-1, Gondia
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Abhay Agrawal, Ld. Advocate
Revenue by : Shri Surjit Kumar Saha, Ld. Sr.D.R.

Date of Hearing : 25.06.2025
Date of Pronouncement : 23.09.2025

O R D E R

This appeal has been preferred by the Assessee against the order dated 19/06/2024 impugned herein passed by the National Faceless Appeal Centre (NFAC)/Commissioner of Income Tax (Appeals), Delhi (in short, 'Ld. Commissioner') u/sec. 250 of the Income Tax Act, 1961 (in short, 'Act') for the A.Y. 2013-14.

2. As per assessment order, an information was available before the Ld. AO to the effect that Assessee has made an investment with M/s.Wasankar Wealth Management, amounting to Rs. 17.00 Lac during the assessment year under consideration. However, the Assessee has not filed his return of income for the assessment year under consideration and, therefore, the sources for investment of Rs. 17.00 Lac remain unexplained and the interest component on the investment also not offered for taxation.

3. On the basis of the aforesaid information, the case of the Assessee was reopened by recording the reasons for reopening of assessment u/sec. 147 of the Act and issuing notice dated 31/03/2021 u/sec. 148 of the Act. The Assessee in response to the notice issued u/sec. 142(1) of the Act, replied that he has not made any cash deposit with M/s. Wasankar Wealth Management and not filed any ITR as there was no taxable income. The Assessee before the Ld. AO, in response to the subsequent notice, replied that he has invested Rs. 17.00 Lac in the said entity out of sale proceeds received and savings of his family members. The Assessee also stated that his wife Smt. Sarla Agarwal, sold a plot of land vide sale deed executed on 24/05/2012 for a consideration of Rs. 19.20 Lac, which was in cheque and the same was deposited in her bank account and subsequently withdrawn in cash.

4. The AO though considered the earlier submission to the effect that Assessee has not made any cash deposit with such entity and not filed ITR as there was no taxable income and the subsequent submission of investment of Rs. 17.00 Lac was made out of sale proceeds received and savings of family members, however, the AO by considering the fact *"that before the Police Inspector on dated 17/09/2015, the Assessee stated that on influence of Mr. Muralidhar Mavure and his son, he made investment with the aforesaid entity in his name to the tune of Rs.5.00 Lac; in his wife name Smt. Sarla Agarwal to the tune of Rs.5.00 Lac; in his son's name Rs. 5.00 Lac; and, Rs. 2.00 Lac as membership fee in the name of his wife. Further, the Assessee requested further time to furnish the information called for, however, the Assessee has not furnished any information in response to the notice. As the assessment is getting barred by 31/03/2022, the Ld. AO has no option to complete the assessment u/sec. 144 basing on the information available"*, ultimately, made the addition of Rs. 17.00 Lac being unexplained investment u/sec. 69 of the Act and added the same to the income of the Assessee.

5. The Assessee, being aggrieved against reopening of the case u/sec. 147 of the Act as well as addition on merit, challenged the same by filing first appeal before the Ld. Commissioner. The Ld.Commissioner not only affirmed the reopening proceedings

u/sec. 147 r.w.s 148 of the Act but also affirmed the addition on merit mainly by holding that the submission of the Assessee is considered but is not to be having force and is a thought-out story to explain the investment. Therefore, in absence of explanation on the source of investment, remains unexplained. Consequently, the Ld. Commissioner affirmed the aforesaid addition.

6. This Court has given thoughtful consideration to the peculiar facts and circumstances. It is not the case of the Revenue Department that the Assessee has not submitted before the AO that his wife has sold the property to the tune of Rs. 19.20 Lac which was in cheque and the same was deposited in her account and later on withdrawn in cash. Further, the Assessee also claimed before the AO that investment has also been made from savings of his family members. The Assessee before this Court, has also presented sale deed dated 25/05/2012 which pertains to the selling of property on a consideration of Rs. 19.20 Lac received by the Assessee's wife, on different dates. The Assessee has also filed a copy of cash flow statement with regard to the Assessee's son Mr. Deepak Agarwal and his wife Smt. Sarla Agarwal, wherefrom it appears that amounts of Rs. 10.59 Lac and 1.00 Lac respectively were withdrawn. The Assessee has also demonstrated the past savings of himself and his wife and his son were of Rs. 2.00 Lac, Rs. 2.00 Lac and Rs. 1.50 Lac, respectively.

7. Thus, on the aforesaid facts and circumstances and on the available documents, this Court is convinced that Assessee has demonstrated and/or discharged his onus cast u/sec. 69 of the Act and therefore, the amount of Rs. 17.00 Lac cannot be considered as unexplained investment u/sec. 69 of the Act. Thus, the addition of Rs. 17.00 Lac is deleted, by allowing the appeal of the Assessee.

8. In the result, Assessee's appeal is allowed.

Order pronounced in open court on 23.09.2025 as per Rule 34(5) of the Income Tax (Appellate Tribunal) Rules, 1963.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

vr/-

Copy to: The Appellant
The Respondent
The CIT, Concerned, Nagpur
The DR Concerned Bench

//True Copy//

By Order

Senior Private Secretary
ITAT, Nagpur.