

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
(Through Virtual Mode)
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER
ITA No.83/JAB/2025
A.Y. 2018-19**

Sangeeta Gupta, Ludhati, Itama, Maihar, Satna	vs.	Income Tax Officer, Ward-1, Satna
PAN:BDIPG5378M		
(Appellant)		(Respondent)

Assessee by:	Sh. Dhiraj Ghai, CA
Revenue by:	Sh. N.M. Prasad, Sr. DR
Date of hearing:	21.08.2025
Date of pronouncement:	24.09.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the order of the Id. CIT(A), NFAC under section 250 of the Income Tax Act, 1961 on 18.02.2025 dismissing the appeal of the assessee in limine. The grounds of appeal are as under:-

- "1. On the facts and circumstance of the case, the Id. CIT(A) erred in not considering the case as bad in law, as has been initiated by JAO instead of faceless.*
- 2. On the facts and circumstances of the case, case, the Id. CIT (A) erred in not considering the case as bad in law on account of not giving sufficient time of 30 days to assessee to reply the notice under section 148A(b).*
- 3. On the fact and circumstance of the case, the Id. CIT (A) has erred in law as well as on the fact of the case in dismissing the appeal in liming without condoning the delay even when there exist reason and sufficient cause behind the delay so caused was beyond the control of the appellant.*
- 4. The Id. CIT (A) erred in law as well as on the fact of the case in confirming the addition of 21,23,97,680/- credited in the bank account of the assessee in cash form without considering the fact that assessee duly uploaded the audit report on e-portal, confirming the source of cash. Further Id. CIT (A) also erred in not considering the reply filed in the appeal proceeding, as well as in the assessment proceeding by assessee, to dismiss the appeal being filed beyond allowable time having sufficient cause.*

5. *On the fact and circumstance of the case, the Id. CIT (A) erred in confirming the addition of 1,23,97,680/-, as made by AO by rejecting the appeal on technicalities instead of adjudicating the appeal of assessee on merits as has been held by Supreme Court in Improvement Trust, Ludhiana Vs. Ujagar Singh and Ors(2010) 6 SCC 786 and CIT vs. West Bengal Infrastructure Development Finance Corp (2011) 34 ITR 269 SC.*
6. *On the fact and circumstance of the case, the Id. CIT (A) has erred by not considering the fact that the AO has made addition of 1,23,97,680/- merely on the basis of credit entry in the form of deposit of cash, but totally ignoring the debit entries being remitted to wholesale dealers of mobile from whom the assessee has purchased mobile phone for retail sale and the cash deposit was made from the cash sale of mobile phone only.*
7. *Ld. CIT (A) erred in law as well as on the fact of the case in charging interest under section 234B and 234D of the Act. The assessee totally denies its liability to pay such interest. The interest so charged being contrary to the provisions of law and fact and may kindly be deleted. The Id. CIT (A) has invalidly dismissed the appeal in limine without condoning the delay in filing of appeal by 123 days, and Id. CIT (A) should have decided the case on merits.*
8. *The appellant craves leave to add or amend any ground of the appeal."*

2. The facts of the case are that that the Department received an information that the assessee has deposited cash of Rs. 1,23,97,680/- in her account in the Central Bank of India, but no return had been filed for the assessment year 2018-19. Accordingly, the case of the assessee was taken up for re-assessment by issue of notice under section 148. The ld. Assessing Officer records in his order, that during the course of assessment, he issued notices under section 142(1), reminder letters, a show cause notice under section 144 and a final show cause notice, but the assessee did not respond to any of these notices. Therefore, the ld. Assessing Officer decided to treat this amount of Rs.1,23,97,680/- as unexplained money assessable under section 69A of the Income Tax Act. He also brought the same to tax under section 115 BBE of the Act and initiated penalty proceedings under section 271AAC. Aggrieved by this order dated 23.03.2023, the assessee filed an appeal before the NFAC on 24.08.2023 along with a condonation petition to explain the delay of 123 days. It was submitted that the reason for the delay was that the assessee's husband had been charged in a police case by the Unchehara Police Station of Satna District on 17.08.2018 and therefore, the assessee was unable to make to file

returns, make compliance to the assessment proceedings and also there was a delay in filing of the appeal on this account. The Id. CIT(A) considered the submissions of the assessee and pointed out that her husband was arrested in September, 2021 and was bailed out in November, 2021. The assessment proceedings were initiated in March, 2022 and completed in March, 2023. Thus, the lodging of FIR against her husband in 2018 and detention in custody for two months in 2021 could not be a reason for delay in filing the appeal in April, 2023. Therefore, since there were not sufficient reasons to explain the delay, the Id. CIT(A) decided to dismiss the appeal in limine.

3. The assessee is aggrieved at this summary disposal of her appeal and has accordingly come in appeal before us. Sh. Dhiraj Ghai, C.A. (hereinafter referred to as the Id. AR) representing the assessee, submitted that the assessee was carrying out of sale purchase of Cellphones / Mobile Phones under the name of M/s Rakesh Enterprises in town Amarpatan of Satna district of Madhya Pradesh. The accounts were regularly audited but in the assessment year 2018-19, thought Form 3CB and 3CD, attachments like the profit and loss account and balance-sheet could not be submitted. However, it was submitted that the assessee was engaged in sale purchase of Cellphones/ Mobile Phones on retail basis. The entire purchases were from M/s Bharat Enterprises, Satna and payment to this party was made either through account payee cheque or RTGS. It was the sale proceeds from the sale of goods that were deposited in the bank and payment to the seller was made through the bank channel. In support of this, the assessee had submitted purchase and sale register of F.Y. 2017-18 before the Id. CIT(A). The cash book, bank statement, sale ledger and ledger account of purchases would show that the source of cash deposited in the bank account was cash received from sale of Cellphones / Mobile phones. Therefore, the conclusion drawn by the Id. Assessing Officer that this was unexplained money of the assessee under section 69A was incorrect. It was further

submitted that the assessee had not been able to furnish this information during the assessment proceedings, because a false case had been registered against her husband under section 392 IPC for robbery, which was a non-bailable offence and therefore, the assessee's husband was forced to abscond and avoid police arrest. During this time, the assessee had left Amarpatan and shifted to village Ludhoti for fear of arrest of family members by the police, to compel her husband to surrender. Therefore, in the period concerned, she could not keep contact with her accountant and could not submit the return of income for A.Y. 2018-19, despite the fact that the Form 3CB and 3CD were filed by the Auditor. It was submitted that the assessee's husband had been arrested on 9.09.2021 and ultimately granted bail by the District Judge, NDPS Act, Katni on 10.11.2021. Due to the mental torture undergone by the family, the business of the family was impacted and compliance could not be made to Income Tax proceedings. It was submitted, that had the Id. AO gone through the bank statement at Central Bank of India properly, he would observe that the bank statement reflected a regular business and therefore, the amount of Rs.1,23,97,680/- could not be regarded as unexplained money under section 69A. It was prayed that the assessee was now in a position to prove that money so deposited was not unexplained and it was accordingly prayed, that the matter may kindly be restored back to the file of the Id. Assessing Officer.

4. On the other hand, Sh. N.M. Prasad, Sr. DR (hereinafter referred to as the Id. DR) submitted that the assessee had no excuses for the failure to comply to notices during assessment and also for the delay in filing of the appeal before the Id. CIT(A). This had been brought out by the Id. CIT(A) and therefore, the appeal of the assessee should be dismissed.

5. We have duly considered the facts and circumstances of the case. It appears that due to some legal disputes, the assessee and her family were disturbed during the period of assessment, due to which they were non-

compliant before the ld. Assessing Officer. From the copies of the Audit Report that have been filed before us, it appears that the assessee had a running business of sale and purchase of mobile phone. This aspect has not been examined by the Assessing Officer, on account of the non-compliance of the assessee, but is necessary to look into before it can be contended that the cash deposits in her bank are unexplained money under section 69A. Therefore, in the interest of justice to both parties, we deem it appropriate to restore this matter back to the file of the ld. AO, so that the assessee may present the necessary evidences before the ld. AO to demonstrate that the cash so deposited in her bank account at Central Bank of India, is not unexplained money under section 69A but arising out of the sale proceeds of her regular business and thereafter, depending on the compliance made by the assessee and the evidences submitted, the ld. AO may take an appropriate decision, in accordance with law.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced on 24.09.2025 in the open Court.

Sd/-

**[KUL BHARAT]
VICE PRESIDENT**

DATED:24/09/2025

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Copy forwarded to:

1. Appellant -
2. Respondent -
3. CITDR, ITAT,
4. CIT,
5. The CIT(A)

Sd/-

**[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER**

By order
Sr. P.S.