

**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.208/JAB/2025
A.Y. 2018-19**

Jain Ware House Near Chhota Jain Mandir Seoni, Seoni- 480001, Madhya Pradesh	vs.	Income Tax Officer, Ward- Seoni
PAN:AAJFJ5962B		
(Appellant)		(Respondent)

Assessee by:	Sh. Abhijeet Shrivastava, Advocate
Revenue by:	Sh. Alok Bhura, Sr. DR
Date of hearing:	19.08.2025
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 dated 20.03.2025 dismissing the appeals of the assessee, filed against the orders of the Id. AO under section 147 r.w.s. 144 of the Income Tax Act, 1961 on 29.03.2023. The grounds of appeal are as under:-

- “1. That learned NFAC was not justified in upholding the order of the Ld. AO in view of the fact that the Assessment) was illegal, void and without jurisdiction.*
- 2. That the Ld AO and Appellate authority only on premises an opinion has made the addition without confronting it to the assessee. Due to lack of opportunity to represent the of the case, the assessment order must be quashed.*
- 3. That on the facts and in the circumstances of the case the demand raised by the AO without looking into the fact the subsidy amount receive in the firm is transfer again and again from current account to saving account*
- 4. That the Assessing office erred in framing an Assessment without looking to the evidence produced before him is violation of principle of natural justice and*

without any determination on the merits of the case and hence the said order is illegal, void and without jurisdiction.

5. That addition of Rs.7599200/- towards taxable income under is unjustifiable.

6. The appellant craves leave to add, alter or amend any of the grounds of appeal before or during the course of hearing of the appeal."

2. The facts of the case are that the Department received an information that the assessee had received rental income and also deposited an amount of Rs.52,56,000/- during the F.Y. 2017-18. Therefore, the ld. AO after following the necessary procedures issued a notice under section 148. However, the ld. AO records that despite issue of various notices under section 142(1) and 143(2) along with a show cause notice, the assessee did not make effective compliance to the queries raised by him. He pointed out that there was information with him that the assessee had received Rs.21,24,000/- as rent on which tax was deducted under section 194IB of the Income Tax Act and there was also information that the assessee had deposited cash amounting to Rs. 52,56,000/- in his bank account. The assessee had not submitted any information during the course of re-assessment regarding the nature and investments of Rs. 52,56,000/-, other than to say that the same was subsidy amount received in firm's current account and transferred to warehouse loan account at the same time. It denied the fact of any cash deposit of amount of Rs. Rs. 52,56,000/-. Accordingly, after asking the assessee to explain the nature and income from the subsidy receipts, to which the assessee did not reply, the ld. AO added back the subsidy receipt amounting to Rs.50,99,500/- and the receipt of Rs.24,99,700/-, which he observed to have been received on transfer from MMDC account. Applying the provisions of section 2(24)(xviii)(a), he thereupon proceeded to make the addition under section 69A.

3. Aggrieved with the said addition, the assessee filed an appeal before the ld. CIT(A), NFAC. There was a delay of approximately six months in filing the appeal but the ld. CIT(A) condoned the delay. The ld. CIT(A) noted that during

the course of assessment, the assessee had not been able to explain the source of money to the satisfaction of the ld. AO and he also noted that the assessee had not furnished any reply or any evidence in support of the claim during appeal proceedings also. Therefore, he found no reason to interfere with the order of the ld. AO and he confirmed the addition of Rs. 50,99,500/-. Similarly with regard to the sum of Rs.24,99,700/- transferred into the account of the assessee from the MMDC account. The ld. CIT(A) noted that the assessee had not been able to furnish any reply regarding the nature and source of the payments and during the course of appeal proceedings also, no details of the nature and source of this credit was explained. Accordingly, the ld. CIT(A) found it fit to confirm both these additions.

4. The assessee is aggrieved at this summary disposal of his case by the ld. CIT(A) and has accordingly come in appeal before us. Sh. Abhijeet Shrivastava, Advocate (hereinafter referred to as the ld. AR) arguing the matter submitted that there was no justification for making any addition under section 69A, because the deposit in the bank account was fully explainable and had in fact been explained the ld. AO. It was submitted that the sum of Rs. 50,99,500/- was a subsidy received from the Government which had been transferred from the current account to the savings account. Therefore, there was no reason to make any addition for the same under section 69A. Similarly, the sum of Rs. 24,99,700/- have been transferred from MMDC account and therefore, it could not be treated as unexplained money under section 69A. It was submitted that the ld. AO had not provided due opportunity to the assessee and it was for that reason that the assessee could not make full compliance before him. The ld. CIT(A) had not discussed the issue of notices or the non-compliance to the same in his order and therefore, it could not be said that the assessee had not made compliance during appeal proceedings. Accordingly, it was prayed that without appreciating the fact that the assessee had declared its income under section

44AD, the ld. AO had created a demand under section 69A and also erred in applying section 2(24)(xviii)(a) and created an enormous demand. It was, therefore, prayed that the assessee may be given one more opportunity to present its case before the ld. AO so that it could demonstrate that the amounts were not taxable in the manner that they had been brought to tax by the ld. AO.

5. On the other hand, Sh. Alok Bhura, Sr. DR (hereinafter referred to as the ld. DR) submitted that the assessee had been non-compliant both during assessment and appeal proceedings and therefore, directions may kindly be issued to the assessee to make due compliance in case the Tribunal, in his wisdom, decided to send the matter back.

6. We have duly considered the facts and circumstances of the case and the arguments presented by the assessee. It is seen from the arguments made, that the sum of Rs.75,99,200/- cannot be regarded as unexplained money under section 69A, because of findings recorded in the assessment order itself that the sum of Rs. 50,99,500/- has been received on account of subsidy. Furthermore, the sum of Rs.24,99,700/- was received on transfer from MMDC account. Thus, if at all the same are to be brought to tax, then there cannot be according to the provisions of section 69A. However, we recognize the fact that the assessee has not explained its case properly to the ld. AO and we deem it necessary in the interest of justice to both parties that the matter should be restored to the file of the ld. AO, so that the assessee may explain as to why the subsidy received is not taxable as per the provisions of section 2(24)(xviii)(a) and why the amount transferred from MMDC account should not be taxed in its' hands. We would like to caution the assessee, that failure to make due compliance could be viewed adversely against it. Accordingly, the ld. AO may consider the explanation and evidences submitted by the assessee and thereafter pass a fresh order in accordance with law.

7. 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

Sh

Sd/-

**[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER**

Copy forwarded to:

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

By order
Sr. P.S.