

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

Jagveer Singh, Village Bhiyamau Khohi Thana, Baraunda, Satna, M.P.	vs.	Income Tax Officer, Ward-1, Satna
PAN:ENEPS0024R		
(Appellant)		(Respondent)

Assessee by:	Sh. Dhiraj Ghai, C.A.
Revenue by:	Sh. N.M. Prasad, Sr. DR
Date of hearing:	20.08.2025
Date of pronouncement:	30.09.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the orders of the Id. CIT(A), NFAC dismissing the appeal of the assessee against the orders passed by the Id. Assessing Officer under section 147 r.w.s. 144 of the Income Tax Act on 20.03.2023. The grounds of appeal are as under:-

"1. The ex-party order passed u/s Rs. 144 for AY 2018-19 on 20.03.2023 by faceless centre holding cash deposits to the extent of Rs. 1,76,85,400/-deposited in Bank accounts as unexplained cash and thereby making addition of 1,76,85,400/- is wholly illegal, unlawful and against the principles of natural justice.

2. The ex-party order of Learned CIT(A) is bad in law and liable to be quashed for Non consideration of material on record and additions made of Rs 1,76,85,400/- is illegal in want of non-application of principles of natural justice

3. Without prejudice:-The learned Commissioner of Income Tax (Appeals) has erred in dismissing the appeal ex-party and thereby confirming the order passed by Assessing Officer. The ex-party order passed by learned assessing officer being bad in law and void-ab-inito was required to be quashed instead of being confirmed

4. The Ld. AO has grossly erred in law and or on facts in not providing sufficient opportunity to reply (as assessee filled timely adjournment on want of severe illness) before holding the entire cash deposits to the extent of Rs 1,76,85,400/- deposited in Bank accounts as unaccounted cash without giving importance to debit entries in bank and nature of assessee's retail business of cement and thereby making addition of Rs. 1,76,85,400/- Thus, there was gross violation of the principles of natural justice and ex-parte assessment order /assessment followed by CIT(A) is liable to be quashed. The appellant may be allowed to produce additional evidence as per Rule 46A and it may be admitted.

5. The Ld. AO has grievously erred in law and or on facts in holding entire cash deposits to the extent of Rs. 1,76,85,400/- deposited in Bank accounts as unaccounted cash and thereby making addition of Rs. 1,76,85,400/- as further confirmed by CIT(A) without giving weight age to the fact that assessee was retail dealer of prism cement and has maximum retail sale in cash only which was sufficient proof to confirm genuine cash deposits of 1,76,85,400/- in the bank during demonetization and henceforth addition of Rs 1,76,85,400/- may kindly be deleted.

6. That in the facts and circumstances of the case as well as in law, the Ld. AO has grievously erred in holding cash deposits to the extent of Rs. 1,76,85,400/- deposited in Bank accounts as unaccounted cash and thereby making addition of Rs. 1,76,85,400/-/- without appreciating the fact that assessee's bank which was duly in possession of the AO clearly showed that cash deposited in bank was duly transferred to PRISM CEMENT and hence entire cash deposits cannot be the income of the assessee and accordingly addition of Rs 1,76,85,400/- is bad in law and needs to be deleted.

7. The Ld. AO has grievously erred in law and or on facts in making addition invoking section-69A though the condition precedent were not satisfied.

8. Without prejudice to the above and in alternative the impugned addition made by AO is highly excessive and calls for reduction.

9. The appellant craves leave to add or amend any ground of the appeal."

2. At the very outset, it is noticed that the appeal is late by 135 days'. The assessee has filed a condonation petition in which it has been submitted that the delay in filing the second appeal was on account of the assessee's ill health. The assessee had been suffering from Jaundice for the last three months and thereafter was advised by the Doctors, to have complete bedrest. In view of this, he was not able to examine his e-portal and could not therefore find out, that the ld. CIT(A's) order had been passed on 27.06.2024. Further, it was submitted that the assessee could not make compliance before the ld. CIT(A), because of

his illness over the last three months. Upon finding out that the order had been passed, the assessee contacted his counsel, who on perusal of the said appeal order advised the assessee to file a second appeal alongwith a condonation petition. In support of his application, the assessee also filed an affidavit affirming the same. A prescription was also filed from a local Doctor dated 30.09.2024, certifying that the assessee had been suffering from Jaundice and required rest for recovery. After considering this petition and the accompanying certificate, the appeal of the assessee is admitted for adjudication, after condoning the delay.

3. The facts of the case are that the assessee made a cash deposit of Rs. 1,76,85,400/- in his account with ICICI Bank Limited during the F.Y. 2017-18. However, he had not filed a return of income under section 139 and therefore, the ld. AO initiated proceedings under section 147 of the Act, by way of issuance of notice under section 148. The ld. AO thereafter records that a number of notices and letters were issued by him to the assessee, but the assessee did not make compliance to any of these. In the circumstances, the ld. AO recorded his satisfaction that he had no option but to proceed with the assessment in a best judgment manner and accordingly, he added back the cash deposit of Rs. 1,76,85,400/-, that had been made in the accounts of the assessee, as unexplained money under section 69A.

4. Aggrieved with the said orders, the assessee filed an appeal with the National Faceless Appeal Centre. Here to, the ld. CIT(A) recorded the details of the notices that had been issued to the assessee, so as to bring out that the assessee had neither complied nor requested for adjournment. He had merely filed medical certificates and from the same, the ld. CIT(A) concluded that the assessee was not interested in prosecuting the appeal on its merits and since

he had not placed any evidence before him to support the grounds of appeal, the ld. CIT(A) dismissed the appeal of the assessee.

5. Sh. Dhiraj Ghai, C.A. (hereinafter referred to as the ld. AR) appearing on behalf of the assessee, submitted that the non-compliance before the ld. CIT(A), was entirely on account of the illness of the assessee and he drew our attention to the certificate which established the fact of the assessee suffering from Jaundice during the said period. It was therefore submitted, that the matter may kindly be restored to the file of the ld. AO so that the assessee could make full compliance before the ld. AO and demonstrate, that there was no occasion for the AO to hold that any income had escaped assessment.

6. On the other hand, Sh. N.M. Prasad, Sr. DR (hereinafter referred to as the ld. DR) submitted that the assessee had been non-compliant throughout the assessment and appeal proceedings and therefore, the Tribunal may issue directions to him to make compliance, failing which, adverse inference could be taken of his repeated non-compliance.

7. We have duly considered the facts and circumstances of the case. We note that the additions have been made in the hands of the assessee and confirmed by the ld. CIT(A), primarily because the assessee has not made any compliance to the various notices issued to him by the ld. AO and the ld. CIT(A). The assessee has explained this to be on account of his illness. Be that as it may, the fact remains that it is for the assessee to furnish an explanation for the amounts deposited in his bank account and to demonstrate as to why the same should not be regarded to be his income, thereby liberating him from the liability of filing a return. In view of the fact that the earlier non-compliance has been attributed to lack of knowledge and illness, we deem it fit in the interest of justice to restore the matter back to the file of the ld. AO, so that the assessee may avail the opportunity to explain the deposits in his bank account and the

ld. AO may thereafter consider the said explanations and pass a fresh order in accordance with law.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 30.09.2025 in the open Court.

Sd/-

**[KUL BHARAT]
VICE PRESIDENT**

DATED: 30/09/2025

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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.