

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं
श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.1156/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2019-20)

Shri Neeraj Gupta, Hyderabad. PAN: AEWPG0380F (Appellant)	Vs.	Dy. Commissioner of Income Tax, Central Circle 3(3), Hyderabad. (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri P. Vinod, Advocate
राजस्व द्वारा / Revenue by:		Dr. Sachin Kumar, SR-DR
सुनवाई की तारीख / Date of hearing:		15/10/2025
घोषणा की तारीख / Pronouncement:		17/10/2025

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M. :

This appeal is filed by Shri Neeraj Gupta ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)"), dated 22.04.2025 for the A.Y. 2019-20.

2. At the outset, it is seen that there is a delay of 15 days in filing this appeal before the Tribunal. The assessee has filed a condonation petition along with a copy of affidavit explaining the reasons for the delay. It was submitted that the assessee was suffering from viral fever during the relevant period and hence could not meet his counsel in time for filing the appeal. Consequently, the delay of 15 days occurred in filing the same. It was further submitted that there was no malafide intention on the part of the assessee and that the delay was purely due to circumstances beyond his control. Therefore, the Learned Authorised Representative (“Ld. AR”) prayed before the Bench to condone the delay and admit the appeal for adjudication.

3. The Learned Departmental Representative (“Ld. DR”) did not make any serious objection to the condonation of delay.

4. We have considered the rival submissions and perused the material available on record. The reasons explained by the assessee appear bona fide and satisfactory. The delay is only for a short period

of 15 days, and no element of malafide can be attributed. Following the settled judicial principle that a liberal approach should be adopted while considering condonation of delay, we are satisfied that sufficient cause exists for the delay. Accordingly, the delay of 15 days in filing the appeal is condoned, and the appeal is admitted for adjudication on merits.

5. The assessee has raised the following grounds of appeal :

1. On the facts and in the circumstances of the case, the order of the Id. CIT(A) is erroneous both on facts and in law.
2. The Id. CIT(A) erred in sustaining the substantive addition made by the AO of Rs.30,45,000 as unexplained money u/s.69A of the Income Tax Act, 1961 in the hands of the appellant. The Id. CIT(A) failed to appreciate that the AO in the asst. order concludes that Sri Bajrang Pershad is the owner of cash seized from the appellant.
3. The Id. CIT(A) further erred in confirming the substantive addition on the alleged ground that the appellant failed to file documentary evidence that the seized cash was duly accounted for in the books of M/s. Sree Durga Jewellers.

(Tax Effect: Rs.23,75,100)

4. Any other ground that may be urged at the time of hearing.

6. The brief facts of the case are that the assessee is an individual working as a Manager in M/s. Sree Durga Jewellers. He filed his original return of income for the Assessment Year 2019–20 on

22.07.2019, admitting total income of Rs.3,48,540/-. During a routine vehicle check on 05.03.2019, the Police found cash amounting to Rs.1,53,00,000/- in the possession of the assessee. Consequently, a search and seizure operation under section 132 of the Income Tax Act, 1961 ("the Act") was conducted on the same day on the assessee by executing a warrant of authorization. Subsequent to the search and after filing of the return of income, the Ld. AO issued a notice under section 143(2) on 14.02.2020. After considering the assessee's submissions, the Ld. AO completed the assessment of the assessee under section 143(3) of the Act on 26.02.2021 making substantive addition of Rs.30,45,000/- under section 69A of the Act and protective addition of Rs.1,22,55,000/- under section 69A of the Act.

7. Aggrieved by the order of Ld. AO, the assessee preferred an appeal before the Ld. CIT(A), who deleted the protective addition of Rs.1,22,55,000/-, but sustained the substantive addition of Rs.30,45,000/-. Thus, the appeal of the assessee was partly allowed by the Ld. CIT(A).

8. Still aggrieved with the order of Ld. CIT(A), the assessee has filed the present appeal before this Tribunal. The Ld. AR submitted that the addition made under section 69A of the Act is wholly unjustified since there is no dispute regarding the ownership of the cash. He invited our attention to para no.7 of the assessment order wherein the statement of Shri Bajrang Pershad, proprietor of M/s. Sree Durga Jewellers, has been extracted. In the said statement, Shri Bajrang Pershad categorically admitted that the entire seized cash of Rs.1.53 crore belonged to him and that it was handed over to the assessee, who was working as a Manager, for participating in an auction for purchase of jewellery at Sowcarpet, Chennai. He further referred to para no.8 of the assessment order wherein the Ld. AO himself recorded the finding that the cash seized belonged to Shri Bajrang Pershad. However, since Shri Bajrang Pershad admitted only Rs.1,22,55,000/- in his return of income, the Ld. AO made a substantive addition of the balance Rs.30,45,000/- in the hands of the assessee. The Ld. AR argued that when both the assessee and Shri Bajrang Pershad consistently stated that the entire cash

belonged to Shri Bajrang Pershad, and the Ld. AO has also accepted this position, there was no justification for making any addition in the hands of the assessee. If there was any discrepancy between the seized cash and the income admitted by Shri Bajrang Pershad, the addition, if any, should have been made in his hands and not in the hands of the assessee. Accordingly, the Ld. AR prayed for deletion of the addition of Rs.30,45,000/- sustained by the Ld. CIT(A).

9. Per contra, the Ld. DR supported the orders of the Ld. AO and Ld. CIT(A), and contended that the addition was made to cover up the unexplained portion of the cash found. He relied on the reasoning given by the lower authorities.

10. We have heard both parties and perused the material available on record. It is an admitted fact on record that during the search operation, cash of Rs.1.53 crore was found from the possession of the assessee. In this regard, we have gone through para no. 7 of the order of Ld. AO, which is to the following effect :

7. Further, during the assessment proceeding, summons was issued to Shri Bajrang Pershad to appear in person on 27.02.2020. In response to summons, Shri Bajrang Pershad in his statement admitted that he has given the cash of Rs. 1.53 Cr to Sri Neeraj Gupta for participating and purchasing of jewellery at Saukarpet, Chennai. Shri Bajrang Pershad also deposed in the statement that he has admitted Rs 1,22,55,000/- amount in his return of income out of Rs 1.53 Crore cash seized. The relevant excerpt of the statement recorded u/s 131 is as follows.

Q.6. As per the information received from DDIT(Inv), Unit-I(I), Chennai, the Tamilnadu police has found a cash of Rs. 1.53 Cr from him during the course of routine vehicle checking on 05.03.2019. He has stated that the cash of Rs. 1.53 Cr found with him belongs to you and it was also stated by your son Sri Ruchin Agarwal in his statement that it was given for the purpose of purchase of jewellery at Sowcarpet, Chennai. Please offer your comments.

Ans. Yes, we had information that some of the traders were conducting auction of Gold jewellery at Sowcarpet market, Chennai. So I have given the cash of Rs. 1.53 crores and requested him to participate in auction which is to take place on 05.03.2018. I had not given him any receipts or document in this regard and he carried the cash on my instructions. The cash belongs to me which shri Neeraj Gupta has also confirmed in his statement u/s 132(4) during the course of search and Seizure operation.

Q.7. Please explain the source for the cash of Rs. 1.53 crores.

Ans. Out of Rs. 1.53 Crores seized, my cash balance on 4.03.2019 prior to the date of search is Rs. 30,45,000/- which is from the cash sales of my proprietary concern M/s. Sree durga Jewellers. It was duly informed during the course of search too in the statement by my son and produced the cash book for verification. The balance cash is from the cash sale which is not accounted in the books of accounts of M/s Sree Durga Jewellers, which I have declared in my return voluntarily.

11. On perusal of above, we find that in his statement shri Bajrang Pershad categorically accepted that the entire seized cash of Rs.1.53 crores belonged to him and that it was handed over to the assessee, who was working as a Manager, for participating in an auction for purchase of jewellery at Sowcarpet, Chennai. We have also gone

through para no.8 of the order of Ld. AO, which is to the following effect :

8. Hence, after perusal of sworn statement Shri Neeraj Gupta, Shri Ruchin Agarwal and sworn statement recorded in case of Shri Bajrang Pershad, it is confirmed that this money belongs to Shri Bajrang Pershad who is proprietor of M/s Sri Durga Jewellers. Subsequently a search and seizure operation was conducted in the case of Sri Bajrang Pershad proprietary concern M/s Sree Durga Jewellers by DDIT(Inv), Unit-II(1), Hyderabad on 10.12.2021. As the warrant was executed in the case of Sri Bajrang Pershad u/s 132, pending assessment proceedings of A.Y. 2019-20 in the

case of Sri Bajrang Pershad got abated. In view of the above, the difference amount of cash seized and admitted income which comes to Rs. 30,45,000/- is **substantively** added back u/s 69A of I.T. Act as unexplained money to the income of Shri Neeraj Gupta for A.Y. 2019-20.

[Addition: 30,45,000/-]

12. On perusal of above, we find that the Ld. AO categorically noted that the entire cash belonged to Shri Bajrang Pershad. However, the Ld. AO proceeded to add Rs.30,45,000/- in the hands of the assessee on the ground that Shri Bajrang Pershad had not admitted the entire amount in his return of income. We find that when the ownership of the seized cash has been clearly accepted as belonging to Shri Bajrang Pershad, there remains no legal or factual basis to treat any part of the said cash as unexplained in the hands of the assessee. The addition, if any, could only have been examined in

the hands of the person to whom the money actually belonged. It is a well-settled principle that no addition can be made in the hands of a person merely on the basis of possession, when the real ownership of the asset or money is established to belong to another person, and the same is supported by documentary and statement evidence recorded by the revenue itself. Accordingly, we are of the considered view that the addition of Rs.30,45,000/- sustained by the Ld. CIT(A) cannot be upheld.

13. In view of the above discussion, we hold that since the seized cash did not belong to the assessee, no addition under section 69A of the Act can be sustained in his hands. Accordingly, the addition of Rs.30,45,000/- is deleted.

14. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 17th Oct., 2025.

Sd/-

**(VIJAY PAL RAO)
VICE PRESIDENT**

Sd/-

**(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER**

Hyderabad.

Dated: 17.10.2025.

* Reddy gp

Copy of the Order forwarded to :

1.	Shri Neeraj Gupta, 3-5-694, Narayanguda, Himayatnagar, Hyderabad-500029
2.	The DCIT, Central Circle 3(3), Hyderabad.
3.	Pr.CIT (Central), Hyderabad.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,