

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.505/Nag./2024
(Assessment Year : 2017-18)

Chandrakant Nemasao Palsapure,
Parshav Jewellers, Sarafa Bazar
Bhaji Mandi, Itwari,
Nagpur-440 002,
Maharashtra.
PAN – AHVPP9603Q

..... Appellant

v/s

Income Tax Officer,
Ward-5(3),
Aayakar Bhawan,
Nagpur-440001,
Maharashtra.

..... Respondent

Assessee by: Shri.Naresh Jakhotia.A.R.
Revenue by : Shri.Surjit Kumar Saha.Sr.DR

Date of Hearing – 15/10/2025

Date of Order – 17/10/2025

ORDER

The assessee has filed the appeal against the order dated 22/07/2024, passed by the learned CIT(A)/National Faceless Appeal Centre(NFAC), Delhi u/sec 147 r.w.s.144and u/sec250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2017-18. The assessee has raised following grounds of appeal:-

"1. Assessment order passed is bad in law as the Addition done by Learned Assessing Officer & confirmed by learned CIT (A) is without due appraisal or verification of the facts and records otherwise available and accessible to the learned assessing officer.

2. On the facts and circumstances of the case and in law, Whether Learned Assessing Officer is right in making & Learned CIT (Appeal) in confirming the addition of Rs. 26 Lakh, Rs. 11 Lakh & Rs. 82,000/- under section 69A, 69C& 56(2)(x) respectively to the returned income?

3. On the facts & circumstance of the case and in law, whether learned CIT (A) is right in not accepting the additional grounds filed by during the course of the Appellate proceeding before OFF(A) to b

4. On the facts & circumstance of the case and in law & appreciating the fact that the Appellant has made request for the same, whether learned CIT (A) is right in not providing (a) the opportunity of video conferencing before deciding the appeal (b) for making the submission on legal grounds & (c) in not communicating the acceptance of additional grounds during appeal?

5. Appellate crave to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal."

2. The brief facts of the case are that, the assessee has filed the return of income for the A.Y. 2017-18 on 12/09/2017 disclosing a total income of Rs.4,81,690/-.The Assessing Officer(A.O) has received information that the assessee has purchased the immovable property of Rs.37,82,000/- in the F.Y.2016-17 and said the property was purchased below the market rate and provisions of sec56(2)(vii)(b) of the Act are applicable. The Assessing Officer has reason to believe that income has escaped assessment and issued notice u/sec148 of the Act. In compliance to the notice, the assessee has filed the return of income on 3.04.2021 disclosing a total income of Rs.4,81,690/-. Subsequently, notice u/sec 143(2) and 142(1) of the Act are issued. The assessee was called to explain the sources of purchase of the property along with the evidences. In compliance, the assessee has submitted the bank statement, purchase agreement of the property, registered purchase deed and the withdrawals

and deposits in the bank account. whereas the Assessing Officer was not satisfied with the explanations as the assessee has deposited cash aggregating to Rs.26,00,000/- in the SBI account before the payments made for purchase of property and the A.O. has dealt at Page-2 of the assessment order and rejected the assessee's contentions and sources could not be explained and made addition of cash deposits of Rs.26,00,000/- as unexplained money u/sec69A of the Act. On the second disputed issue, the Assessing Officer found that the assessee has mentioned in the sale deed payment of Rs.1,50,000/- on 12-8-2016 and Rs. 9,00,000/- on 9-08-2016 and the said amounts are not reflected in the bank statement and treated aggregate amount of Rs.11,00,00/- as unexplained expenditure u/sec69C of the Act. And the last disputed issue due to variation in the market value and the purchase cost of the property, Assessing Officer has invoked the provisions of section 56(2)(x) of the Act and made addition of differential value of Rs.82,000/-. Finally, the Assessing officer has assessed the total income of Rs.42,63,690/- and passed the order u/sec147r.w.s.144B of the Act dated 22/03/2022. Aggrieved by the order, the assessee has filed the appeal before the CIT(A).

3. In appellate proceedings, the CIT(A) has considered the grounds of appeal, statement of facts, findings of the Assessing Officer and submissions of the assessee but has confirmed the additions made by the Assessing Officer and dismissed the appeal of the assessee.

Aggrieved by the order of the CIT(A), the assessee has filed appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Id.AR submitted that the CIT(A) has erred in sustaining the additions made by the Assessing Officer overlooking the facts, evidences and submissions filed before the lower authorities. Further, the CIT(A) has erred in not accepting the additional grounds of appeal filed in the proceedings and the CIT(A) has not provided opportunity of video conferencing on the request made by the assessee before dismissing the assessee appeal. The Ld. ARs contentions are that the assessee has substantiated with evidences in respect of cash deposits in the SBI bank account and such deposits are out of the withdrawals made from the assessee wife account maintained with the SBI bank. Further the additional payments mentioned in the sale deed are out of earlier withdrawals and savings of the assessee. The purchase consideration paid by the assessee are supported with sources and evidences and prayed for allowing the appeal. The Ld.AR substantiated the submissions with the factual paper book and judicial decisions. Per-contra, the Ld.DR supported the order of the CIT(A).

5. Heard the rival submissions and perused the material on record. Prima-facie, the CIT(A) has sustained the additions u/sec69A, u/sec69C and U/sec56(2)(x) of the Act made by the Assessing Officer. The Ld.AR has referred to the grounds of appeal raised before the CIT(A) and

alternative additional grounds of appeal raised challenging the validity of assessment order. Further, the Id.AR has highlighted the acknowledgment filed in the Paper Book at page 46 and page 91 where the assessee has asked for the opportunity of hearing through video conferencing and the same was not considered by the CIT(A) before deciding the appeal of the assessee. When a question was raised to Ld.AR to explain the sources of acquisition of property, the Ld.AR demonstrated Page-184 of the paper book being the SBI bank statement of the assessee wife, where the wife has made a withdrawals from her bank account and the same amount was deposited in the joint account of the assessee and the cheques issued for purchase of property were cleared. And the balance purchase consideration is paid out of past withdrawals from bank account in F.Y.2016-17 and personal savings. Whereas on a perusal of these facts, there is nothing discussed by the Assessing officer in the assessment order on these supporting evidences filed in the paper book. The Ld.AR also accepted the facts that these evidences have been filed and were not dealt by lower authorities and prayed for an opportunity to substantiate the case with the evidences before the Jurisdictional Assessing Officer. Hence, considering the facts, circumstances, submissions of the learned A.R, evidences and to meet the ends of justice, the assessee should be provided with one more opportunity for hearing. Accordingly, the order of the CIT(A) is set aside and restore the disputed issues to the file of the jurisdictional assessing officer to adjudicate issues afresh on merits and

evidences. Further the assessee should be provided adequate opportunity of hearing and the assessee should co-operate in submitting the information. And the grounds of appeals of the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 17/10/2025.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur