

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

I.T.A. No.: 1151/KOL/2025

Assessment Year: 2016-17

Dinesh Kumar Singhania (Appellant)	Vs.	I.T.O., Ward-34(1), Kolkata (Respondent)
PAN: AIXPS9807J		

Appearances:

Assessee represented by : Miraz D. Shah, AR.

Department represented by : Kallol Mistry, JCIT, Sr. DR.

Date of concluding the hearing : 29-July-2025

Date of pronouncing the order : 21-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Addl/JCIT(A)- Prayagraj [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2016-17 dated 30.09.2024, which has been passed against the assessment order u/s 143(3) of the Act, dated 14.12.2018.

2. The assessee is in appeal before the Bench raising the following grounds of appeal:

"1. That the Order passed u/s 250 is bad in law as well as on facts of the case.

2. The Hon'ble Commissioner of Income Tax (A) erred in upholding the addition made under section 69A without providing an opportunity to explain the source, despite the show cause notice being issued under section 68, violating principles of natural justice.



3. That the Hon'ble Commissioner of Income Tax (A) erred in upholding the addition of ₹21,92,184/-, including ₹6,00,000/- duly declared under IDS, 2016 for FY 2015-16 as part of the disclosed cash balance.

4. That the Hon'ble Commissioner of Income Tax (A) erred in law as well as on facts of the case by confirming the addition made by the Ld. Assessing Officer of treating the cash in hand of ₹21,92,184/- as unexplained money under section 69A of the Income Tax Act, 1961.

5. That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings.”

3. Brief facts of the case are that the assessee is an individual and had filed his return of income for the relevant assessment year declaring total income of ₹2,69,160/- under the provisions of section 44AD of the Act. In the return of income, the assessee had duly furnished the details under Part 'Balance Sheet' and Part 'AP and L' and reported cash balance of ₹21,92,184/-. In the course of the assessment proceedings, the assessee furnished the copy of the bank account and the books of account even though it was not required to maintain the books of account as per the provisions of section 44AD of the Act. The assessee explained the high cash balance and further informed that he had made disclosure under the Income Declaration Scheme, 2016 and that for the relevant assessment year, he had disclosed income of ₹6,00,000/- which formed part of such cash balance relating to FY 2015-16. The assessee had also made disclosures of income for earlier financial years under the Income Disclosure Scheme, 2016 and thereafter after duly accounting for such disclosures, computed the net cash balance and filed his belated return of income on 25.02.2017. The Assessing Officer (hereinafter referred to as the 'Ld. AO') doubted the high cash balance without appreciating the submissions made by the assessee. A show cause notice dated 10.12.2018 was issued asking why the closing cash balance should not be added as undisclosed income u/s 68 of the Act



to which the assessee responded. Thereafter, the Ld. AO added the cash balance to the returned income u/s 69A of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who issued six notices for hearing but as there was no compliance and the said notices were duly served upon the assessee and there was no response to the hearing notices nor any document/evidence/information was provided in support of the relief claimed, therefore, the appeal was dismissed on account of non-prosecution.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. At the outset, the Ld. AR submitted that the assessee has filed an affidavit stating that both before the Ld. AO as well as before the Ld. CIT(A) *ex parte* orders were passed and the assessee had not received any of the notices issued during the appellate proceedings either through email, SMS or any other prescribed mode of communication under the Act. The contents of the affidavit are as under:

“1. That I am fully conversant with the facts and circumstances of the present matter and am competent to swear this affidavit.

2. That I was served with an Ex-Parte Order under Section 250 of the Income Tax Act, 1961, passed by the Hon'ble Commissioner of Income Tax (Appeals) for the Assessment Year 2016-2017, due to alleged non-compliance with certain notices issued during the course of the appellate proceedings.

3. That I categorically state that I had not received any of the notices issued during the appellate proceedings under Section 250 of the Income Tax Act, 1961, either through email, SMS, or any other prescribed mode of communication under the Act.



4. That my registered email address and mobile number as updated in the records of the Income Tax Department were valid and operational at all material times, and no intimation or communication regarding the issuance of such notices was ever received by me, either electronically or physically.

5. That due to the non-receipt of the aforesaid notices, I was prevented from making submissions or attending the appellate proceedings under Section 250, which ultimately resulted in the passing of an Ex-Parte Order against me.

6. That I have always been law-abiding and compliant with the provisions of the Income Tax Act, 1961, and there has never been any intention on my part to evade or delay any statutory compliance or to avoid the appellate proceedings.

7. That I became aware of the disposal of the re-assessment and appellate proceedings only upon receiving a telephonic intimation from the Income Tax Department regarding the outstanding demand.

8. That the non-compliance during the appellate proceedings under Section 250 was solely due to reasons beyond my control and not attributable to any deliberate act or omission on my part.

9. That I affirm that the contents of this affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.”

6. The Ld. AR requested for remanding the matter to the Ld. AO as both at the assessment stage as well as before the Ld. CIT(A) at the appeal stage, proper compliance was not made and the return showing total income of ₹2,69,160/- was filed but as high cash in hand of ₹21,92,184/- was shown for which no proper explanation was filed, therefore, the amount was added. The Ld. AR stated that the Ld. CIT(A) at page 2 para 3 of the appeal order has mentioned the facts of the case that the returned income of ₹2,69,160/- was filed under the provisions of section 44AD of the Act and in the return of income the assessee had duly furnished the details under part balance and part p & 1 and reported cash balance of ₹21,92,184/-. During the course of the assessment proceedings, the assessee furnished the copy of the bank



account and the books of account even though it was not required to maintain the same and the fact has been mentioned in the assessment order. The assessee explained the high cash balance and further informed that he had made disclosure under the IDS, 2016 and for the relevant assessment year he had disclosed the income of ₹6 Lakh which formed part of such cash balance relating to the FY 2015-16. The assessee had also made disclosures of income for earlier financial year under the IDS, 2016, thereafter, duly accounting for such disclosures, he computed the net cash balance as on 31.03.2016 u/s 69A of the Act and had filed the belated return of income on 25.02.2017. The submission of the assessee was not considered by the Ld. AO and even in the order of the Ld. CIT(A) there is no discussion on merit.

7. We have considered the submissions made. Both before the Ld. AO as well as the Ld. CIT(A) though the assessee has claimed to have made compliance and the cash in hand shown was disclosed in the IDS, 2016, which fact was mentioned in the facts of the case in Form No. 35, yet no discussion in this regard has been made before the Ld. AO or even before the Ld. CIT(A) whose order is not on the merits of the case; therefore, in the interest of justice and fair play, the assessee is provided another opportunity and the order of the Ld. CIT(A) is hereby set aside and the matter is remanded to the Ld. AO to frame the assessment *de novo* after providing adequate opportunity of being heard to the assessee. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments. The assessee is also directed to file the cash flow statement along with the necessary evidence for the generation of cash in hand from the past years including the amount disclosed under the



IDS, 2016. Even though no books of account were required to be maintained for the income shown u/s 44AD of the Act, however, since huge cash in hand was shown in the return of income, therefore, the assessee is required to explain the nature and source of the cash by filing a cash flow statement along with the required evidences. Therefore, Ground nos. 2, 3 and 5 are partly allowed for statistical purposes.

8. Ground nos. 1 and 6 being general in nature do not require any separate adjudication.

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

Order pronounced in the open Court on 21st October, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 21.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Dinesh Kumar Singhania, Arjun Enclaves, Flat-4A, 12C, Judges Court Road, Kolkata, West Bengal, 700053.**
2. **I.T.O., Ward-34(1), Kolkata.**
3. Addl/JCIT(A)-Prayagraj.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata