

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

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

**I.T.A. No. 1400/Ko1/2025
Assessment Year : 2019-2020**

Dipak Agarwalla HUF,
Tulshihata, PO+Vill:.,
Tulshihata, Hariscandrapur,
Malda, West Bengal - 732140
[PAN: AAJHD7906F]

..... **Appellant**
vs.

The Income Tax Officer,
Ward-3(1), Malda,
Aayakar Bhaban, Bichitra Hall,
Rathbari, Malda - 732101

..... **Respondent**

Appearances by:

Assessee represented by : Rana Dey, office staff of Miraz D.
Shah, AR
Department represented by : Sanjib Kumar Paul, Addl. Sr. DR
Date of concluding the hearing : 22.10.2025
Date of pronouncing the order : 23.10.2025

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER:

1. The present appeal is filed against the order u/s 250 of the Income Tax Act, 1961 (hereafter "the Act"), dated 19.02.2025, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereafter "the Ld. CIT(A)).
2. At the outset, it is noted that there is a delay of 61 days in filing the appeal before this Tribunal. The assessee has filed a petition along with an affidavit explaining the reasons for the delay. After considering the petition and the submissions made, we are satisfied that there was sufficient cause for the delay. Accordingly, the delay is condoned, and the appeal is admitted for adjudication.

3. The brief facts of the case are that the assessee, a Hindu Undivided Family (HUF), did not file its return of income for the relevant assessment year. Based on information available, the Assessing Officer noticed that the assessee had made cash withdrawals of ₹2,84,38,000 during the financial year 2018–19 from a current account maintained with Axis Bank. Accordingly, the case was reopened under section 147 of the Income-tax Act, 1961, and notice under section 148 was issued. Despite service of notice, the assessee did not file any return of income. Subsequently, notice under section 142(1) was issued, in response to which a partial reply was filed. However, no supporting documentary evidence was produced to explain the total credits of ₹2,91,59,779 appearing in the said bank account. The Assessing Officer, therefore, completed the assessment under sections 144/147, read with section 144B, by estimating business income at ₹17,49,586, being 6% of the total turnover reflected in the bank account.

4. Aggrieved by the above order assessee preferred an appeal before the Ld. CIT(A), where Ld. CIT (A) after considering the submissions, upheld the assessment order.

5. Dissatisfied with the above order, the assessee is in appeal before this Tribunal.

6. At the time of the hearing the learned Authorised Representative submitted that the order passed by the Assessing Officer as well as the CIT(A) is bad in law and against the principles of natural justice, as the assessment was completed without granting adequate opportunity to explain the source of the bank deposits and withdrawals. It is contended that the authorities below failed to properly verify the business nature of the transactions and made an arbitrary estimation of income at 6% of the total turnover without sufficient basis. The assessee, therefore, prayed that the matter be remanded to the Assessing Officer for fresh adjudication.

7. The learned Departmental Representative supported the orders of the lower authorities and submitted that sufficient opportunity had already

been given to the assessee. However, assessee could not substantiate the source of funds or produce supporting books of account.

8. We have heard the rival submissions and perused the material available on record. It is observed that the assessment was completed under section 144/147 of the Act on an estimated basis, and the CIT(A) has sustained the same without detailed verification of the underlying bank transactions. Considering the facts and circumstances and in the interest of justice and fair play, we deem it appropriate to remand the matter to the file of the Assessing Officer with a direction to re-examine the bank transactions, verify the nature of deposits and withdrawals, and afford a reasonable opportunity of being heard to the assessee before passing a speaking order in accordance with law.

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

Order pronounced on 23.10.2025

Sd/-
(Rakesh Mishra)
Accountant Member

Sd/-
(Sonjoy Sarma)
Judicial Member

Dated: 23.10.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches