

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.437/RPR/2025
निर्धारण वर्ष / Assessment Year: 2016-17**

Vicky Sherwani,
A-6, Rajeev Nagar,
Shankar Nagar, Raipur,
Chhattisgarh, 492001
PAN: BGLPS5239M

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer 3(1),
Raipur, Income Tax Building,
Civil Lines, Raipur,
492001 Chhattisgarh

.....प्रत्यर्थी / Respondent

Assessee by : Mr. Yogesh Warlyani, CA

Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 03.11.2025

घोषणा की तारीख / Date of Pronouncement : 06.11.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 10.06.2025 for the assessment year 2016-17 as per the following grounds of appeal:

‘1. *Learned CIT(A) has erred in law and on the facts in confirming the addition of Rs.20,81,900/- u/s 68 read with section 115BBE of Income Tax Act 1961.*

2. *The appellant reserves the right to amend, modify or add any of the grounds of appeal.*

2. At the time of assessment, it was observed by the AO that huge cash was deposited in the bank account of the assessee with Allahabad Bank, Raipur and the assessee was asked to explain the source and nature of such cash deposits. Thereafter, the AO had observed and held as follows:

However, on perusal of the bank statement it has been seen that very less cash withdrawals were made. From bank statement it is noticed that wherever cash was withdrawn, narration 'Cash cheque- ...paid to...' is mentioned. Also, withdrawal mentioning the narration 'Cheque WDL—' is not cash withdrawal but either it is transfer through cheque or withdrawal through bearer cheque by someone else. Therefore, it is observed that assessee has deposited huge cash amount in his bank account which is not commensurate with either his income or the withdrawals and so Peak credit on the basis of cash deposit and cash withdrawals is derived as under-

DATE	WITHDRAWAL (IN RS)	DEPOSIT (IN RS)	BALANCE
3.04.2015	0	60000	(-) 60,000
8.04.2015	0	4900	(-) 64,900
1.05.2015	0	3,60,000	(-) 4,24,900
6.05.2015	0	1,06,000	(-) 5,30,900
8.05.2015	0	5,00,000	(-) 10,30,900
18.05.2015	0	7,00,000	(-) 17,30,900
20.05.2015	0	30,000	(-) 17,60,900
2.06.2015	0	89,000	(-) 18,49,900
18.06.2015	0	25,000	(-) 18,74,900

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18.06.2015	0	2,50,000	(-) 21,24,900
1.07.2015	0	59,000	(-) 21,83,900
6.07.2015	1,25,000	0	(-) 20,58,900
17.07.2015	0	83,000	(-) 21,41,900
21.07.2015	14,000	0	(-) 21,27,900
28.07.2015	2,00,000	0	(-) 19,27,900
29.07.2015	0	4,800	(-) 19,32,700
30.07.2015	0	60,000	(-) 19,92,700
6.08.2015	0	1,06,300	(-) 20,99,000
13.08.2015	0	2,500	(-) 21,01,500
14.08.2015	1,00,000	0	(-) 20,01,500
19.08.2015	0	32,500	(-) 20,34,000
22.08.2015	2,00,000	0	(-) 18,34,000
24.08.2015	0	1,50,000	(-) 19,84,000
26.08.2015	12,000	0	(-) 19,72,000
31.08.2015	0	59,000	(-) 20,31,000

Thus, cash shortage is found to be Rs 21,83,900/- on 1.07.2015.

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In order to cover this anomaly and the cash shortage, he has furnished his Balance sheet as on 31.03.2015 showing cash in hand of Rs 26,04,762/-. However, there is no authenticity of this Balance sheet. Assessee has filed his return of income in ITR 3 showing income from other sources of Rs 5,45,342/- and net income of Rs 4,24,260/- only. Moreover he might have incurred household expenses too out of this income of Rs 4,24,260/- and so his net savings is certainly very less amount which cannot be commensurate with his claimed opening cash in hand of Rs 26,04,762/-. **Further, it is also illogical that someone keeps huge cash, i.e almost equal to more than eight years of net savings after meeting out all family and social responsibility, with him and that too when assessee was having bank account and he used to transact through it. Further, assessee has claimed to have unsecured loan of Rs 1,26,00,000/- as on 31.03.2015 which itself clears the thing. It is beyond the human probability that someone keeps huge cash in hand but at the same time he takes huge unsecured loan also.** Thus, assessee's claim regarding opening cash in hand of Rs 26,04,762/- cannot be accepted.

However, considering the age of assessee (28 years) and his return income for earlier years it will be proper if his opening cash in hand is considered to be Rs 1,00,000/-.

Thus, since assessee had deposited Rs 21,83,900/- (on the basis of peak credit) in his bank account whereas his cash in hand was Rs 1,00,000/- only, it is observed that assessee has failed to prove the source of cash deposits in respect of the remaining amount of Rs 20,81,900/- and so it remains unexplained income in the form of cash credit u/s 68 of the Income Tax Act, 1961 and therefore, this amount is added to the returned income of the assessee under section 68 of the Income Tax Act, 1961.

This addition is subject to tax u/s 115BBE of the Income Tax Act, 1961.

Moreover, since assessee has concealed particulars of his income, penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961 are also initiated.

4. In view of the discussions made in the earlier paragraphs the income of the assessee for A.Yr 2016-17 is being computed as below:

	Returned income	Rs 4,24,260/-
Add,	Addition on account of cash credit u/s 68 of the Income Tax Act, 1961, as discussed in para 3 above	Rs 20,81,900/-

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	Total income	Rs 25,06,160-
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Assessed as above. Issue demand notice. Give credit for prepaid taxes. Charge interest under section 234A, 234B and 234C of the Income Tax Act, 1961. Initiate penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961.


3. Ld. CIT(A)/NFAC confirmed the addition made by the AO on the basis of following observations:

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appellant's declared income or lifestyle, particularly in view of his declared total income of Rs. 4,24,260/- for the previous year and modest income history. The AO's approach of considering Rs. 1,00,000/- as reasonable opening cash-in-hand, based on the assessee's age, profession, and prior returns, was not arbitrary but stemmed from a prudent estimate in the absence of verifiable proof.

5.2.1 While the appellant has contended that the cash deposits were out of accumulated cash savings from the past years, it is pertinent to note that:

- The alleged accumulation of over Rs. 26 lakhs in cash over prior years lack contemporaneous evidence such as audited financials, income utilization statements, or corroboration of declared personal/household investment/expenditures & expenses incurred to earn the income over the years.
- The appellant's reliance on cumulative income and depreciation over the years to justify the cash balance, without demonstrating the nexus with cash holdings, is speculative.
- The opening balance of Rs. 26,04,762/- was disclosed for the first time in the statement of affairs submitted during assessment and was not supported by any previous cash flow statements, books or audited records. It does not bear the reliability necessary to counter the AO's findings.
- In view of the income earned over a period of years, the assessee is a person of meagre resources, who is into the business of money lending to earn interest. It is submitted by appellant that the said cash has been withdrawn from his bank account during the year 14-15. It is not comprehensible that why the cash withdrawals claimed to have been made were not deposited back in bank during the year 2014-15 itself & why the same were deposited back in a staggered manner over the period in 2015-16. Further the A.O. in assessment order has observed that very less amount of cash withdrawal were made by the assessee & withdrawals were made either through cheque or through bearer cheque by someone else. This observation has also not been controverted by the appellant.
- The expression any some found credited in the books of the assessee means all the entries on the credit as well debit side needs to be explained.
- With declaration in IDS 2016, for undisclosed income for several years, it is apparent that the assessee has persistently not been declaring his income truthfully.
- Though appellant has submitted that he has earned income of more than 64 lacs during the period 2005-06 to 2015-16, yet no details of expenses, investment made in property dealing, money lending, renting of cars has been filed to substantiate the cash flow & claimed opening cash in hand at the


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beginning of previous year on the basis of self-generated isolated statement of affairs for the previous year.

4. At the time of hearing, Ld. Counsel for the assessee submitted that the assessee is a money lender and explaining the source of such cash deposits he had furnished a table wherein he has explained the following items: (i) IDS Declaration of Rs.10,00,000/-: That cross checking the said IDS declaration annexed at page 13 of the paper book volume 4, which is made part of this order as follows:

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Acknowledgement Number : 488984950101016

Form 2

[See rule 4(3)]

ACKNOWLEDGEMENT OF DECLARATION UNDER SECTION 183 OF THE FINANCE ACT, 2016

IN RESPECT OF THE INCOME DECLARATION SCHEME, 2016

THE INCOME DECLARATION SCHEME RULES, 2016

Whereas **Mr. VICKY SHERWANI** (hereinafter referred to as the declarant) has filed a declaration under section 183 of the Finance Act, 2016.And whereas the said declaration has been received on **30/09/2016**

Now, therefore after consideration of relevant material, I hereby determine the following amount payable by you with respect to the declaration made under the scheme:

(1) Sl. No.	(2) Assessment Year	(3) Undisclosed income as declared in Form 1	(4) Undisclosed income eligible for the scheme	(5) Amount payable			(6) Reasons (in case of difference in amounts in Column (3) and (4)
				Tax	Surcharge	Penalty	
1	2011	100000	100000	30000	7500	7500	
2	2012	125000	125000	37500	9375	9375	
3	2013	150000	150000	45000	11250	11250	
4	2014	175000	175000	52500	13125	13125	
5	2015	450000	450000	135000	33750	33750	
Total		1000000	1000000	300000	75000	75000	

The declarant is hereby directed to make the payment of sum payable as per column (5) of the above table, as specified below :

- (i) an amount not less than twenty-five per cent. of the sum payable on or before 30th day of November, 2016.
- (ii) an amount not less than fifty per cent. of the sum payable as reduced by the amount paid under clause (i) above on or before 31st day of March, 2017.
- (iii) the whole of the sum payable as reduced by the amount paid under clause (i) and (ii) above on or before 30th day of September, 2017.

In case of non-payment of the amount as specified above, the declaration under Form-1 shall be treated as void and shall be deemed never to have been made.

Place	RAIPUR	Name, signature and seal of Designated Authority
Date	10/10/2016	

5. It is evident from the aforesaid that the said IDS declaration pertains to assessment year 2015-16 whereas the case of the assessee is of assessment year 2016-17, hence, the said explanation is misplaced and incorrect. For FY 2015-16 relevant to AY 2016-17 there is no fund emanating in the IDS declaration hence cannot be a source explaining the cash deposits for AY 2016-17.

6. The next item that has been taken up by the assessee is that he had earned cash income of Rs.8,66,171/- for the financial year 2015-16, however, the assessee has not demonstrated this either in front of the department or before this Bench with any sustainable evidence. Mere explanations and oral submissions cannot come to the rescue of the assessee and it is just a method to cover up and a mere after thought, therefore, this amount of Rs.8,66,171/- is also not established and the claim of the assessee, therefore, stands incorrect, devoid of any evidence.

7. The assessee in item No. 3 has claimed cash income for financial year 2014-15 of Rs.5,70,517/-, however, this is with regard to assessment year 2015-16 and not for assessment year 2016-17, which is relevant assessment year before this Bench. Further, there has been no evidence furnished in this regard by the assessee, hence, the said amount of

Rs.5,70,517/- also remains unsubstantiated as claimed by the assessee to justify the available cash for the said cash deposits.

8. The last item, the assessee has claimed is the surplus withdrawal from bank account in the FY 2014-15 *i.e.* relevant to AY 2015-16 of Rs.5,79,500/-. The same has been explained by the assessee through tabulation form at page 13 of paper book III. However, as submitted by Ld. Sr. DR that there is no authenticity of such tabulation because the same has not been furnished before the department. Even, the Ld. AR was unable to show any receipt of the department through any seal, stamp or even an online screenshot of the portal through which it can be said that such claim of the assessee is genuine. It is clear that the assessee has never furnished or shared the said document with the Department. Furthermore, it refers to FY 2014-15 relevant to AY 2015-16, the case before me is for AY 2016-17 and in absence of any credible evidence with regard to this aspect, the same cannot be relied upon and therefore, is misplaced and an incorrect statement made by the assessee. That further, the assessee has also not placed on record any confirmation from the bank with regard to said transaction. When the issue is about explaining the source of cash deposit, the assessee should have made efforts to obtain a statement from the bank regarding surplus withdrawal and corresponding deposits in the bank account. That, further the assessee

has also not been able to explain why he had withdrawn such money during FY 2014-15 relevant to AY 2015-16 and had deposited in the FY 2015-16 relevant to AY 2016-17. There is no explanation by the assessee why a money lender would keep such huge amount of cash with him idle and deposit it at a later date. Therefore, the assessee had failed to demonstrate the availability of cash of Rs.30,16,188/- hence the cash deposits remain unexplained. The Department has rightly observed that the opening balance as disclosed by the assessee at Rs.26,04,762/- was disclosed for the first time in the statement of affairs submitted during the assessment and are not supported by any previous cash flow statement, books or audited records.

9. It was submitted by the assessee that the said cash has been withdrawn from his bank account during the FY 2014-15 and there is no explanation before the subordinate authorities that why such cash withdrawal claimed to have been made was not deposited back in the bank account during financial year 2014-15 itself and why the same were deposited in a segregated manner during FY 2015-16.

10. The CIT(A)/NFAC also holds that as per declaration for IDS for undisclosed income for several years, it was apparent that the assessee had persistently not declared his income truthfully which goes on to show

the concealment or incorrect declaration of income made by the assessee before the Department. These aspects have not been explained and clarified by the Ld. Counsel for the assessee.

11. That on examination of the facts and circumstances of the case as per the foregoing paras, I do not find any infirmity with the findings of the Ld. CIT(A)/NFAC, which is hereby upheld.

12. In the result, the appeal of the assessee is dismissed.

Order pronounced in open court on 6th day of November, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 6th November, 2025.

HKS, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.

5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

//True copy//

Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur