

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.551/RPR/2025

निर्धारण वर्ष / Assessment Year : 2017-18

Khandelwal Industries
Industrial Area, Dhamtari
Chhattisgarh-493 773
PAN: AAQFK4740D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-Dhamtari (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sunil Kumar Agrawal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 14.11.2025

घोषणा की तारीख / Date of Pronouncement : 14.11.2025

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

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 23.07.2025 for the assessment year 2017-18 as per the grounds of appeal on record.

2. The brief facts in this case are that the assessee is a partnership firm and is engaged in running flour and rice mill and deriving income from the said business. The A.O at the time of assessment observed that during the year under consideration, one of the partner of the assessee firm i.e. Shri Vinod Khandelwal introduced capital of Rs.3,00,000/- in the firm and accordingly, the assessee was required to furnish the details of the capital introduced along with supporting documents. The assessee furnished copy of ITR a/w. computation of income and balance sheet of the partner i.e. Shri Vinod Khandelwal for the assessment year under consideration. That on perusal of the same, the A.O was not satisfied and further show cause notice was issued. In response to the show cause notice, the assessee submitted that the closing cash in hand of Shri Vinod Khandelwal as on 31.03.2016 was Rs.10,14,541/- and the same amount was formed of Rs.7,00,000/- which was withdrawn from Khandelwal industries on 30.12.2014. In support of this claim, the assessee had furnished copy of cash flow statement and individual bank statement.

The A.O did not agree with the submissions of the assessee on the ground that as per return filed in ITR-4 of Shri Vinod Khandelwal for A.Y.2016-17, he had not shown any cash in hand balance and accordingly, as per the A.O, therefore, the balance sheet and computation that has been submitted by the assessee before A.O stands unsubstantiated and therefore, genuineness of the said transaction was doubted by the A.O. Accordingly, an amount of Rs.3,00,000/- was treated as unexplained u/s.68 r.w.s. 115BBE of the Income Tax Act, 1961 (for short 'the Act') and added to the total income of the assessee.

3. The findings of the A.O was upheld by the Ld. CIT(Appeals)/NFAC in summary manner without any apparent reasoning emanated from his order and without following the mandate of Section 250 (4) & (6) of the Act. The relevant extract of the findings of the Ld. CIT(Appeals)/NFAC are extracted as follows:

“5.3 Ground No. 2(a) relates to the issue of Addition on A/c. of partners' capital introduced is treated as unexplained u/s 68 r.w.s. 115BBE Rs.300000/-.

I have carefully gone through the facts of the case and ground wise submission filed by the appellant. With respect to this ground on going through the facts, it is observed that during the year under consideration, one of the partner of the assessee firm i.e. Shri Vinod Khandelwal had introduced capital of Rs.3,00,000/- in the firm. The Appellant had been asked to furnish the details of the capital introduced alongwith supporting documents. In response, the appellant had furnished the copy of ITR alongwith the computation of income & balance sheet of the partner, Shri Vinod Khandelwal for the assessment year under consideration. On perusal of the same, it was observed by the A.O. that an

amount of Rs.13,02,440/- was shown as cash in hand & others as on 31.03.2016 in the balance sheet of the partner Shri Vinod Khandelwal, however, no supporting documents had been furnished which can substantiate the closing cash in hand position of the partner.

Thereafter, the appellant had stated that the closing cash in hand of Shri Vinod Khandelwal as on 31.03.2016 was of Rs.10,14,541/- & the same was out of amount withdrawal of Rs.7,00,000/- from Khandelwal Industries on 30.12.2014. In support of his claim, the appellant had furnished the copy of the cash flow statement and individual bank statement of Shri Vinod Khandelwal. The same had been considered by the AO, but not found to be tenable.

The ITR-filed by the partner Shri Vinod Khandelwal for A.Y.2016-17 had been perused by the A.O and it is observed that he had not shown any cash in hand balance as on 31.03.2016, therefore, the balance sheet of the partner produced by the appellant firm is not reliable as no cash balance is reflected in the return of income filed by the partner Shri Vinod Khandelwal, Further, the contention of the appellant that the said amount was introduced by the partner from the withdrawal amount made during the December 2014 was also not found to be sustainable by the AO. It was noted by the AO that the partner of the appellant was an Individual and requires cash to meet his day to day expenses. As the creditworthiness of the partner & genuineness of the transaction was not established, therefore, the said amount of Rs.3,00,000/- remains unexplained. In view of the said facts, the amount of Rs.3,00,000/- was treated as unexplained u/s.68 r.w.s. 115BBE of the Income Tax Act, 1961 and had been added to the total income of the appellant for the year under consideration by the AO.

Ongoing through the above facts of the case as discussed, it is seen that the appellant had failed to prove the creditworthiness of the partner & genuineness of the transaction. The A.O. had rightly analysed the facts of the case. On verification of personal ITR of the partner Shri Vinod Khandelwal, for A.Y. 2016-17 had been perused by the AO and it was observed that he had not shown any cash in hand balance as on 31.03.2016, therefore, the balance sheet of the partner produced by the appellant firm is not reliable as no cash balance is reflected in the return of income filed by the partner Shri Vinod Khandelwal. Thus in my

considered opinion on the facts of the case the A.O. had rightly followed the provisions u/s. 68 r.w.s. 115BBE of the Act and made the addition as Unexplained Investment. In view of the above Ground No. 2 (a) is hereby dismissed.”

4. That on a careful consideration, it is noted that neither the A.O nor the Ld. CIT(Appeals)/NFAC on the aforesaid addition had considered or inquired regarding submissions made by the assessee that such amount of Rs.3,00,000/- is introduced as capital in the firm by the partner i.e. Shri Vinod Khandelwal was from the amount of cash in hand which was Rs.10,14,541/- as on 31.03.2016 and the same amount was formed since there was withdrawal of Rs.7,00,000/- from Khandelwal Industries on 30.12.2014. In support of the aforesaid claim, the assessee had furnished copy of its cash flow statement and individual bank statement. That without confronting the assessee regarding the genuineness of the claim, without making necessary inquiry regarding the submissions which has been put forth by the assessee, the Revenue i.e. both the A.O and the Ld. CIT(Appeals)/NFAC had made/sustained the addition which therefore is perverse, arbitrary and bad in law. The quasi-judicial authority needs to examine and deal with merits of each of the submissions raised by the assessee and as per the mandate of Section 250 (4) & (6) of the Act, the Ld.CIT(Appeals)/NFAC should have conducted necessary inquiry regarding the genuineness of the submissions made by the assessee that

cash in hand was formed from withdrawal of Rs.7,00,000/- from Khandelwal Industries.

5. That since the principles of natural justice was not followed and that since no inquiry on this aspect was done by the Revenue, the addition made in the hands of the assessee, therefore, cannot sustain and accordingly, the same is deleted. The A.O shall provide necessary appeal effect accordingly.

6. Other issue of addition is that the assessee had deposited Rs.17,20,000/- in Sun & Sun Inframetric, Raipur. The A.O was of the opinion that such deposits have been made by the assessee for personal purposes and there was nothing to do with the business of the assessee and accordingly, interest expenses equivalent to 12% of the said deposit should have to be disallowed. In response to the show cause notice that was issued to the assessee by the A.O, it was relied that deposits of Rs.17,20,000/- was for booking of flat which was made prior to 31.03.2016 and during that time, Smt. Meera Khandelwal was the proprietor of Khandelwal Industries and after conversion of Khandelwal Industries into a partnership firm, the said deposits was reflected in the balance sheet of the assessee firm for F.Y.2016-17. The assessee firm also submitted that Smt. Meera Khandelwal had introduced huge capital in the firm and therefore, the deposits of Rs.17,20,000/- was very negligible as

compared to total capital invested. The A.O simply writes that such interest bearing funds were mis-utilized by the assessee for giving interest free deposit to the family concerns of the assessee firm and accordingly, an equivalent amount of interest @12% on said amount of Rs.17,20,000/- i.e. Rs.2,06,400/- was added to the income of the assessee. This addition was upheld by the Ld. CIT(Appeals)/NFAC again without any reasoning and without adhering to the provisions of the Act.

7. That on a careful consideration of the facts, it is apparent enough that the A.O at the initial stage of discussion was of the view to disallow 12% of interest expenses on the ground that such expense was of personal in nature and was nothing to do with the business of the assessee. However, when he disallowed the addition @ 12% of the said deposits he adds it totally on the different ground that there is mis-appropriation of the funds by the assessee by giving interest free deposit to the family concerns of the assessee firm. The A.O had not denied the submissions made by the assessee on this issue. Also, the A.O had not made any inquiry which is apparent in his order to justify the addition and at the same time, his findings are not on the aspect of whether such deposits were for the purpose of business or not but he goes on the aspect of mis-appropriation of the funds or mis-utilization of funds by the assessee by giving interest free deposit to the family concern of the assessee firm.

8. Similarly, the Ld. CIT(Appeals)/NFAC without going into the specific inquiry on this aspect and examining the facts on record had simply upheld the findings of the A.O. That without any reasoning on facts and that without any examination conducted regarding genuineness of the submission made by the assessee, the addition made on this count becomes perverse, arbitrary and it can safely be termed as mere guess work and surmises. The Act mandates the quasi-judicial authority to conduct necessary inquiry which it had failed to do and in such circumstances, it is nothing but a mere guess work and surmises based on which the impugned addition was made. This is not the objective of the Act.

9. Considering the totality of the facts and circumstances, I hold that the addition made/sustained by the lower authorities is misplaced, illegal and without authority of law and accordingly, the same is deleted. The A.O is directed to give appeal effect accordingly.

10. As per the above terms grounds of appeal raised by the assessee are allowed.

11. In the result, appeal of the assessee is allowed.

Order pronounced in open court on 14th day of November, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 14th November, 2025.

SB, Sr. PS

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur