

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.582/RPR/2025
निर्धारण वर्ष / Assessment Year : 2013-14

The Deputy Commissioner of Income Tax-1(1),
Bhilai (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Saligram Tripathi
32/32 Bunglow, Bhilai
Dist. Durg (C.G.)-490 006
PAN: ADEPT2799J

.....प्रत्यर्थी / Respondent

Assessee by : None (Petition filed)
Revenue by : Shri Ram Tiwari, CIT-DR

सुनवाई की तारीख / Date of Hearing : 18.11.2025

घोषणा की तारीख / Date of Pronouncement : 20.11.2025

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

The present appeal preferred by the Revenue emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 29.07.2025 for the assessment year 2013-14 as per the following grounds of appeal:

“1. Whether on the facts and in the circumstances of the case and in law, the Id. CIT Appeal was justified in deleting the addition of Rs.13,65,866 on account of Short Term Capital Gain.

2. Whether on the facts and in the circumstances of the case in law, the Id. CIT Appeal was justified in deleting the addition of Rs.4,57,774 on account of unexplained investment under section 69 of the Income Tax Act,1961.

3. Whether on the fact and in the circumstances of the case and in law, the Id. CIT Appeal was justified in granting relief to the assessee on the basis of unverified documents and submissions filed for the first time at the appellate stage, without providing the adequate opportunity to the AO for examination of the additional evidences in view of Rules 46A of the IT Rules,1962.

4. Whether, on the facts and in the circumstances of the case, and in law, the Id.CIT(A) was justified in granting relief to the assessee solely on the presumption that the Assessing Officer had no objection to the claim made by the assessee, merely because no remand report OR response was received by the Id.CIT Appeal, and thereby passing the appellate order on 29.07.2025- a day prior to the expiry of the due date for submission of the remand report, i.e., 30.07.2025, as stipulated by the Id. CIT Appeal himself.

5. Any other ground which may be adduced at the time of hearing.

6.1. Whether on the facts and in the circumstances of the case and in law, the Id. CIT Appeal was justified in deleting the addition of Rs.2,73,85,039 on account of unexplained investment under section 69 of the Income Tax Act,1961.”

2. At the time of hearing, none appeared for the assessee. However, an adjournment petition has been filed which is rejected. The matter is heard after recording the submission of the Ld. CIT-DR and on a careful examination of the material available on record.

3. In this Revenue's appeal, as per **Ground of appeal No.3**, it has been contended that certain additional evidences were considered by the Ld. CIT(Appeals)/NFAC while providing relief to the assessee which were never furnished to the A.O for his comments and such documents were considered without calling for a remand report. In this regard, on a careful consideration of the Ld. CIT(Appeals)/NFAC's order at Page 10, Para-xi & xii would be relevant to refer to and extracted which reads as follows:

“xi. The appellant had filed certain claims with documents and details. As the appellant claimed to have filed these details also before me the A.O during the assessment proceedings, hence the same was referred to the A.O was its comments on 23.07.2025. However, no comments/report or objection of any kind were received from the A.O's side as such and not even a request for adjournment. It is presumed that the A.O has no objections to the said claims as such.

xii. In any case, the contentions of both the A.O and the Appellant respectively have been considered and it is observed that, the Hon'ble Delhi High Court in case of **CIT Vs. Virgin Securities and Credits P. Ltd. (2011) 332 ITR 396 (Del.)** held that the CIT(A) should admit the additional evidence if he finds that the same is crucial for the disposal of the appeal. Further, the Hon'ble Delhi High Court in case of **Chandrakant Chanu Bhai Patel** 202 Taxman 262 has held that, if additional evidence is without any blemish and in order to advance the cause of justice, the same ought to be admitted.

Further, it is noted from the facts narrated by the **Hon. ITAT Mumbai in case of Avan Gidwani Vs ACIT I.T.A.No. 5138/Mum/2015**, that the assessee could collect various evidences only after passing of the assessment order. According to the assessee, **these additional evidences are vital documents which are required to be considered in order to adjudicate the issue in a judicious manner.** The principle "Audi alteram partem", i.e. no man should be condemned unheard is the basic canon principles of natural justice and accordingly we find merit in the contentions of the assessee **that Rule 46A of the Income Tax Rules cannot be override the principles of natural justice.** Hence we are of the view that the learned CIT (A) was not justified in refusing to admit the various additional evidences furnished by the assessee.

In the case of **Jute Corporation of India Ltd. v. CIT 1991 AIR 241, 1990 SCR Supl. (1) 340 the Hon'ble Supreme Court**, while dealing with the powers of the Appellate Assistant Commissioner observed that an appellate authority has all the powers which the original authority may have in deciding the question before it subject to the restrictions or limitations, if any, prescribed by the statutory provisions. In the absence of any statutory provision, **the appellate authority is vested with all the plenary powers which the subordinate authority may have in the matter.** There is no good reason to justify curtailment of the power of the Appellate Assistant Commissioner in entertaining an additional ground raised by the assessee in seeking modification of the order of assessment passed by the Income Tax Officer. This Court further observed that there may be several factors justifying the raising of a new plea in an appeal and each case has to be considered on its own facts. **The Appellate Assistant Commissioner must be satisfied that the ground raised was bona fide and that the same could not have been raised earlier for good reasons.**

The Appellate Assistant Commissioner should exercise his discretion in permitting or not permitting the assessee to raise an additional ground in accordance with law and reason. The same observations would apply to appeals before the Tribunal also.

In view of the above discussions w.r.t the additional evidence, it is an undisputed fact that, the additional evidences/ documents submitted are vital documents, they are in nature of clinching evidence leaving no

further room for any doubt or controversy, they are required to be considered in order to adjudicate the issue in a judicious manner and they also touches the roots of the case, therefore, keeping in mind the position of law and the re-joinder of the Appellant, the undersigned has little choice than to admit the additional evidence and decide the issue on merit. Based on the above facts the evidences have been admitted and the order is being proceeded with.”

4. That as evident from the aforesaid, regarding such evidences and documents filed before the Ld. CIT(Appeals)/NFAC, a remand report was called for by the said authority. However, the A.O preferred not to submit any comments and even till the time of passing of order no such report was ever received by the Ld. CIT(Appeals)/NFAC from the A.O and hence, the additional evidences were considered by the first appellate authority on the very face of it without providing any inquiry and ground verification regarding the same from the A.O. In other words, there was no compliance of Rule 46A(3) of the I.T Rules, 1962.

5. A question raised from the Bench to the Ld. CIT-DR that here is a situation where remand report was called for by the Ld. CIT(Appeals)/NFAC. However, the A.O has not replied at all nor has submitted any remand report to the said authority. Therefore, this is a clear violation of the direction given by the higher authority. In this regard, he submitted that in a case, where the Ld. CIT(Appeals)/NFAC wants remand report from the A.O then the only option is to send reminders to

the A.O for furnishing of such report. Even after the said reminders, if the Ld. CIT(Appeals)/NFAC don't receive any remand report then it can issue notice to the Range Head of the circle of the A.O to pursue the matter with the A.O. In this way, a logical end can be achieved regarding compliance to Rule 46A(3) of the IT Rules, 1962.

6. In the present case, nothing has been brought on record by the Ld. CIT(Appeals)/NFAC which suggests that efforts were made by the said authority for procuring the remand report as submitted by the Ld. CIT-DR. Therefore, as evident from Para xi & xii, the documents and evidences were not confronted to the A.O or no such report was obtained by the first appellate authority. Considering these facts on record, we hold that it was incumbent upon the Ld. CIT(Appeals)/NFAC to comply with Rule 46A(3) of the I.T Rules, 1962 in respect of calling for a remand report from the A.O.

7. Be that as it may, in the interest of substantive justice, considering the facts and circumstances, we set aside the order of the Ld. CIT(Appeals)/NFAC for non-compliance of Rule 46A(3) of the IT Rules, 1962. Answering the **Ground of appeal No.3** of the Revenue's appeal in affirmative, we remand the matter back to the file of the Ld. CIT(Appeals)/NFAC to do the needful in order to procure remand report from the A.O on the documents filed before it. The Ld. CIT(Appeals)/NFAC shall pass a speaking order in terms with Section 250(4) & (6) of the Act.

Needless to say, the Ld. CIT(Appeals)/NFAC shall afford reasonable opportunity of being heard to the assessee as per law.

8. Since **Ground of appeal No.3** is remanded to the file of the Ld. CIT(Appeals)/NFAC, for the sake of completeness, other grounds are also remanded back to the Ld. CIT(Appeals)/NFAC for denovo adjudication as per law.

9. As per the above terms, grounds of appeal raised by the Revenue stands allowed for statistical purposes.

10. In the result, appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 20th November, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 20th November, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रहित / 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, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.