

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं. / ITA No: 566/RPR/2025**  
(निर्धारण वर्ष Assessment Year: 2018-19)

Income Tax Officer, Aaykar Bhawan, Opposite Aatmanand School, Krishna Talkies Road, Rishali, Bhilai, Durg-490006, C.G.	v s	Amit Gautam, House, No. 479, Ward No. 46, Besides Bharat Thekedar, Basantpur, Rajnandgaon-491441, C.G.
<b>PAN: BGTPK6381G</b>		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	None (adjournment application)
राजस्व की ओर से / 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 Arun Khodpia, AM:**

The captioned appeal is filed by the revenue against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi, [in short "Ld. CIT(A)"] passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 14.07.2025 for the Assessment Year 2018-19, which in turn arises from the assessment order u/s 147 r.w.s. 144 of the Act, dated 21.03.2023 passed by Assessment Unit, Income Tax Department (in short "Ld. AO").

**2.** The grounds of appeal raised by the department are as under:

*(1) Whether, on the facts and in the circumstances of the case and in law, the learned CIT(A) was justified in deleting the addition of Rs. 2,13,26,801/- made by the Assessing Officer, merely relying upon the submissions / evidences furnished by the assessee, without affording an opportunity to the AO to examine the same by calling for a remand report, thereby violating the principles of natural justice and the mandate of Rule 46A of the Income-tax Rules, 1962?*

*(2) Any other ground which may be adducted at the time of hearing.*

**3.** The brief facts of the case are that the assessee is an individual who have not filed his return of Income (ROI) for AY 2018-19. The department has gathered information of transactions undertaken by the assessee during the relevant year such as - cash deposits, TDS, cash withdrawals etc. Accordingly the case of assessee has been picked up for reassessment u/s 148 of the Act. Assessee was informed about the proceedings through various notices u/s 148, 142(1) and reminders-8 times, 144, Letter etc. but even after 11 opportunities the assessee had not responded. Accordingly, the assessment was completed on best judgment basis following the provisions of section 144 of the Act. Additions were made on account of unexplained cash deposits in bank – Rs. 20,78,920/-, cash withdrawal – Rs. 1,91,41,820/- and commission / brokerage Rs. 1,06,061/-.

4. Being aggrieved with the aforesaid additions, assessee filed an appeal before Ld. CIT(A), wherein the appeal of assessee has been allowed by the Ld. CIT(A) with following observations:

6.2.3. *I have considered the penalty order, grounds of appeal, the facts presented by the appellant, and circumstances of the case. Appellant remained non responsive during the course of scrutiny and also during the course of appellate proceedings.*

6.2.4. *From the facts and circumstances of the case, it is seen that the appellant is working as business correspondent of Allahabad Bank (since merged with Indian Bank), Rajnandgaon branch, who provides services to customers for deposit of Cash and Withdrawal of Cash from the accounts of customers with that Bank and for that purpose the appellant had to withdraw cash from bank and to deposit cash into bank collected from customers and such cash does not belongs to the appellant. the appellant made cash withdrawal and deposit in his bank account. The appellant deposited cash into bank and withdrew cash from bank from time to time as he works as business correspondent. The cash withdrawn and deposited is not owned by the appellant but that belonged to customers of the then Allahabad Bank. Hence, the addition made by the Ld. AO of Rs. 1,91,41,820/- Rs 2,12,20,740 Rs. 20,78,920/-) is being made to the total Income of the assessee u/s 69C r.w.s. 115BBE of the Income Tax Act, 1961 is deleted.*

6.2.5. *Also the Rs. 1,06,061/- received by the appellant as commission/brokerage is the only income of the appellant, hence not taxable being below taxable limit.*

*Grounds of appeal No. 1 to 3 are Allowed.*

5. In order to assail the aforesaid decision of Ld. CIT(A) granting relief to the assessee, being aggrieved, the revenue is in appeal before us.

6. At the outset, Ld. CIT-DR, representing the revenue submitted that the order passed by Ld. CIT(A) is perverse and liable to be set aside. He further argued that the assessee herein is a persistent non-compliant at the stage of the assessment. The assessee adopted an evasive approach by not complying with the notices issued by Ld. AO and this fact has been duly acknowledged by Ld. CIT(A) also. Ld. CIT(A) has deleted the addition based on submission of the assessee before him without any corroborative evidence to support such submissions. Even if the submissions of the assessee was to be accepted, Ld. CIT(A) was under bounden duty to bring such facts to the knowledge of the Ld. AO and would have called a remand report on the same, however no such action has been exercised or deemed necessary by the first appellate authority, thereby have grossly violated the principle of natural justice and the provisions of Rule 46A of the Income Tax Rules, 1962. In terms of such submissions, it was the prayer by Ld. CIT-DR that the appeal filed by the revenue deserves to be allowed and the order passed by Ld. CIT(A) in contravention to the mandate of law needs to be set aside.

7. We have considered the submission of the revenue and material available on records. In absence of any submission by the assessee before us and on perusal of the facts on record, we find force in the contentions

raised by the Ld. CIT-DR, that the order passed by Ld. CIT(A) was based on submissions of the assessee before him, whereas the assessee remain completely non-responsive before Ld. AO. It is also a fact that the details or submissions furnished by the assessee before the Ld. CIT(A), were never furnished before the Ld. AO, thus, there was no occasion for the Ld. AO to examine / verify such information at the assessment stage. As per the provisions of Rule 46A, it was mandatory for the Ld. CIT(A) to provide such information to the Ld. AO, so that the same can be analyzed, verified and enquired into to check its veracity and genuineness. Since the opportunity to examine the information relied upon by the Ld. CIT(A) in deciding the appeal of assessee was not provided to Ld. AO, thus, he remain deprived of such information and has no occasion to complete the assessment taking into cognizance the said information which was first time furnished before the Ld. CIT(A). We are afraid that whether the genuineness of such information was even examined by Ld. CIT(A) or not is also a question remain unanswered, as nothing has been emanating on this issue from the observations in the impugned appellate order. Ld. CIT(A) also observed in his order at certain places that the assessee appellant remained non-responsive during the course of scrutiny and even during the course of appellate proceedings. In backdrop of such facts and circumstances, deleting the addition based on submissions of the assessee in appeal memo "Form 35", treating the same

as gospel truth, without consulting about such submissions and facts with the Ld. AO, brushing aside the mandatory provisions of the Income Tax Rules stipulated in Rule 46A makes the order passed by Ld. CIT(A), a perverse order, in contravention to the mandate of law and also violative to the principle of natural justice. In view of such facts and circumstances, we are of the considered opinion that the issue raised by revenue against the findings of Ld. CIT(A) contains substance, there was a clear breach of adherence to the prescribed mandate of law and violation of principle of natural justice. Since the assessee who furnished the information cannot be placed at fault for the action of Ld. CIT(A), therefore, we are setting aside the order of Ld. CIT(A) to his file to decide the issue afresh following the provisions and settled principle of law after providing reasonable opportunity of being heard to the assessee as well as to the Ld. AO to comply with the principle of natural justice.

**8.** In backdrop of aforesaid facts and circumstances, the impugned order has been set aside, and the matter is restored back to the file of Ld. CIT(A) to adjudicate afresh, in terms of our aforesaid observation.

**9.** In result, the appeal of assessee is **allowed** for statistical purposes in terms of our aforesaid observation.

Order pronounced in the open court on 20/11/2025.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ARUN KHODPIA)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**रायपुर / Raipur;** दिनांक Dated 20/11/2025  
*Vaibhav Shrivastav, Stenographer*

**आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant- ITO
2. प्रत्यर्थी/ The Respondent- Amit Gautam
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR,  
ITAT, Raipur
5. गार्ड फाईल / Guard file.

**// सत्यापित प्रति True copy //**

**आदेशानुसार/ BY ORDER,**

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur