



**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, ALLAHABAD**

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.62/ALLD/2025
Assessment Year: 2015-16

Mohd Ubaid Ansari 337, Sultanpur Bhawa Noorulla Road Khuldabad Allahabad (U.P)	v.	The Income Tax Department (Faceless)
TAN/PAN:BAJPA0699B		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri A. K. Singh, D.R.

ORDER

This appeal has been preferred by the Assessee against the order dated 29.01.2025, passed by the National Faceless Appeal Centre, Delhi (NFAC) for Assessment Year 2015-16.

2.0 The brief facts of the case are that the assessee had not filed the return of income for the year under consideration. The Income Tax Department was in possession of information that the assessee had made cash deposits to the tune of Rs.52,71,000/- in his bank account maintained with ICICI Bank, during the year under consideration. The assessee was required to explain the source of these cash deposits. During the course of assessment proceedings, the assessee filed reply, computation of income and copy of bank account statement. From the bank

account statement of the assessee maintained with ICICI Bank, it was noticed that the assessee had made cash deposits of Rs.26,71,000/- and Rs.8,05,500/- by cheque/RTGS during the year under consideration. Since the assessee had failed to offer any proper explanation regarding the source of cash deposits made and cheque deposited in his bank account, totaling to Rs.34,76,500/-, the Assessing Officer (AO) treated the same as unexplained money and added the same to the income of the assessee under section 69A of the Act.

2.1 Further, the AO noticed from the copies of purchase and sale deed of property furnished by the assessee that the assessee had sold a residential immovable property bearing No.BP-786/23C at Kareli Mohalla, Allahabad on 09.05.2014 for a consideration of Rs.9.00 lakhs. The assessee had mentioned the indexed cost of acquisition of the property in the computation of income at Rs.92,751/-. To verify the indexed cost, the AO issued notice under section 142(1) of the Act to the assessee. In response to the said notice, the assessee submitted a reply on 26.02.2012, stating as under:

“Sir for proof of index cost the registry copy of property of Rs.1,11,600/- (with cost of stamp paper and court fees) purchased by me during f.y. 2007-08, is already submitted at your portal in the previous reply. However, I am again

submitting the copy of registry for your reference. Secondly, I have constructed the property during the financial year 2010-11 of Rs.5,00,000/- (Rs.5 lakhs only), for which some amount was withdrawn from my Union Bank of India NRI account and other amounts were paid to contractor after f.y. 2010-11, and some amounts were also paid from my past cash savings. The photocopy of bank statement is being uploaded at your portal with this letter. Sir, I was employed in Kuwait for 7-8 years before f.y. 2014-15, for proof I am enclosing photocopy of Passport and Kuwait driving licence.”

2.2 The AO, being not satisfied with the reply furnished by the assessee, calculated the capital gain of the impugned property at Rs.3,46,906/- and added the same to the total income of the assessee under the head “Long Term Capital Gain”. The AO completed the assessment under section 147 read with section 144B of the Act, assessing the total income of the assessee at Rs.39,99,466/-.

2.3 Aggrieved, the Assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee and confirmed the order of the AO.

2.4 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

1. *Because the learned Assessing Officer erred in law and on facts while making an addition of Rs.26,71,000/- as cash deposit in Bank Account of the appellant under section 69A and tax the same under section 115BBE of the Act without considering the past Assessee saving as NRI in Kuwait and Taxi Business in India.*
2. *Because Assessing officer made addition with respect to cheque deposit amount of Rs.805,500 which is not legally correct, Rs.800,000/- as Unsecured Loan and Remaining Rs.5500/- pertaining to Taxi Business. All details already mentioned in Statement of Facts.*
3. *Because for the reason stated in the statement of fact annexed separately with the present ground of appeals, the appellant has clearly stated the reason for their failure to comply with the notices issued by the Income Tax Officer and also declaring the true income.*
4. *Because the 148A(d) order was passed by the AO. Without application of mind and the same was followed by the Faceless Assessing Officer during the reassessment proceedings. Re-opening of proceedings is void-ab-initio (section 149).*
5. *Because in considering the nature of Business it's very difficult to collect documentary evidence only evidence is statement of record of third party. Due to faceless appeal/Assessment this impugned order was prevailed.*
6. *Because Assessee presently Driver and having no Investment in FDR except only One Car not hold any immovable property and reside in Rented Premises.*

7. Because Learned CIT(Appeal) confirmed the Assessment of Order without considering the statement of facts.

8. Because Learned CIT(Appeal) confirmed the Assessment of Order on account of Limitation of faceless Appeal.

9. Because Learned CIT(Appeal) and Assessing officer passing the order without following the Principal of Natural Justice.

10. Because Learned CIT(Appeal) and Assessing officer passing the order without Considering the poor wealth of Assessee.

11. Section 69A Specifically states that "Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the (Assessing) Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be income of the assessee for such financial year.)" the Bank balance of ICICI bank as on 31.03.2015 is Rs.1558710.39 the balance comprises of Rs.800000/- related to Unsecured Loan and Remaining amount related to Past saving of Assessee so the Addition of Income of Rs.34,76,500 as Unexplained are both bad in law and facts.

3.0 None was present on behalf of the assessee when the appeal was called out for hearing nor was any adjournment application moved in this regard. However, looking into the facts of the case, I proceed to adjudicate the appeal ex-parte qua the assessee.

4.0 During the course of hearing, the Ld. Sr. D.R. placed reliance on the orders of the lower authorities and submitted that the appeal of the assessee be dismissed.

5.0 I have heard the Ld. Senior Departmental Representative and have also perused the material on record. It is noticed that the AO had made the addition under the head "Long Term Capital Gain" for the reason that the assessee had not submitted the proof to evidence the indexed cost. In the appellate proceedings, the NFAC dismissed the appeal of the assessee on merits for the reason that the assessee had not submitted the relevant details and source of cash deposits in bank account. Looking into these facts of the case, I am of the considered view that the Assessee deserves one more opportunity to present his case and, therefore, I restore this file to the Office of the Assessing Officer with the direction to provide one more opportunity to the Assessee to explain the source of cash deposits with evidence and also justify the indexed cost. I also

caution the Assessee to fully comply with the directions of the Assessing Officer in the set-aside proceedings when called upon to do so, failing which, the Assessing Officer would be at complete liberty to pass the order in accordance with law, based on the material available on record even if it is ex-parte qua the assessee.

6.0 In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 21/11/2025.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:21/11/2025

JJ:

Copy forwarded to:

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

By order

Assistant Registrar/DDO