

**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI 'DB' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 271/GTY/2025
Assessment Year: 2016-17**

Anup Das	Vs.	Assistant/Deputy Commissioner of Income Tax, Circle-1, Guwahati
(Appellant)		(Respondent)
PAN: AHAPD8411F		

Appearances:

Assessee represented by : Kishor Jain, FCA.

Department represented by : Santosh Kumar Karnani, Addl. CIT.

Date of concluding the hearing : 25-November-2025

Date of pronouncing the order : 11-December-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2016-17 dated 22.01.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“For that on the facts and circumstances of the case as well as on the points of law the order passed u/s 147 r.w.s. 144B and u/s 250 are bad in law.

For that on the facts and circumstances of the case as well as on the points of law the Learned Assessing Officer has erred in adding a sum of Rs.56,65,950/- u/s 69A of the Income Tax Act, 1961 and the Ld. CIT(A) also erred in confirming an amount of Rs.44,33,950/-.



For that any other grounds may kindly be allow to be urge at the time of hearing.”

3. Brief facts of the case are that assessee is an individual and had filed the return of Income for AYs 2014-15 & 2015-16 showing taxable income and during the year relevant to AY 2016-17 the assessee was found to have deposited cash of ₹56,65,950/-, TDS of ₹18,115/- was also made on other interest u/s 194A of the Act and as per the TCS statement, there were transactions of ₹3,16,24,266/-. As no return of income was filed for A.Y. 2016-17, therefore the assessment was reopened u/s 147 of the Act but the assessee did not file any return of income in response to the notice issued u/s 148 of the Act. In response to the show cause notice u/s 144 of the Act dated 07.02.2022, the assessee submitted that he was a name lender and did not deal with purchase amount as per the bank account for the transactions of scrap material with NF Railways. Photocopy of bank passbook for the relevant assessment year and a copy of the affidavit sworn by the assessee in this regard were also filed. It was requested that the matter may be taken up with the N.F. Railway. The assessee stated that he only got commission which he disclosed and deposited the taxes. The Assessing Officer (hereinafter referred to as Ld. 'AO') noted that TCS of ₹3,15,900/- was collected by the FA & CAO Stores Railway as per Form No. 26AS but the assessee had not given any details of cash deposits amounting to ₹56,65,950/-. However, only a sum of ₹56,65,950/- was added as unexplained money u/s 69A of the Act and the total income was assessed at ₹56,65,950/-. No addition on account of the scrap transactions was made on which TCS of ₹3,15,900/- was collected. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who forwarded the details filed by the assessee to the Ld.



AO for his comment. He also noted that there was a computational error on the part of the Ld. AO due to which commission income of ₹14,89,262/- remained to be taxed, therefore, a notice of enhancement of income was issued to the assessee but there was no response in this regard. The remand report was also called from the Ld. AO and the Ld. AO also informed that the assessee had failed to respond to the notice u/s 148 and 142(1) of the Act. However, since the total deposits in the bank account were found to be ₹46,33,950/- and the Ld. AO had not given any comment to the claim of the assessee that there were cash withdrawals of ₹37,09,062/- but it was noticed by the Ld. CIT(A) that there were withdrawals of ₹2 Lakh only, therefore, a copy of the remand report was shared with the assessee with a request to submit the response but as no response was filed, therefore, the withdrawal amount of ₹2 Lakh was treated as explained cash deposit and the difference of ₹44,33,950/- was confirmed and the appeal was partly allowed. The income shown in the return amounting to ₹14,89,262/- and interest of ₹56,484/- discussed in the assessment order but remained to be included in the computation of income were also included in the enhanced income and the appeal was partly allowed.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. At the outset, the Ld. AR submitted that there was no proper representation either before the Ld. AO and even before the Ld. CIT(A) proper compliance was not made as the response to the remand report could not be filed and requested that the matter may be



remanded to the Ld. CIT(A) and another opportunity may be given so that the assessee may explain the source of the cash deposits.

6. We have considered the submissions made. After examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal back to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merits by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on 11th December, 2025 under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

[Manomohan Das]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 11.12.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Anup Das, House No-9, Durga Sarobar, Kamakhya Gate, Guwahati, Assam, 781009.**
2. **Assistant/Deputy Commissioner of Income Tax, Circle-1, Guwahati.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata