

**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.: 156/GTY/2025  
Assessment Year: 2016-17**

ITO, Ward-1, Dimapur	Vs.	Imkummongla Pongen
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: AQJPP8158P</b>		

**Appearances:**

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

**Assessee represented by** : None.

Date of concluding the hearing : 24-November-2025

Date of pronouncing the order : 11-December-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue 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 30.08.2024.

1.1. The Registry has informed that the appeal is barred by limitation by 224 days. The Revenue has filed a petition for condonation of delay explaining the reasons that the order giving effect to the Ld. CIT(A)'s order could not be passed within the stipulated time limit due to unforeseen and persistent technical issues pertaining to the ITBA portal and significant geographical distance for communication with the ITO and the circuitous communication channel inherently which led to delays in official correspondence and processing. Furthermore, the original authorization to file the appeal before the Hon'ble ITAT in this



case was received via speed post only. It was submitted that the aforementioned reasons collectively resulted in the delay in filing the appeal and the delay was not attributable to any negligence or deliberate inaction on the part of the Revenue, but rather to a combination of technical difficulties, administrative challenges and an exceptionally heavy workload. After perusing the same, we are satisfied that the Revenue had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

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

*“1. On the facts and in circumstances of the case and in law, the Ld. CIT(A), NFAC has erred in deleting the addition of Rs. 2,66,07,000/- u/s 69A of the Income Tax Act, 1961 by wrongly relying on/taking into account of the evidences/documents/submissions made by the assessee without giving the A.O. an opportunity to examine it in contravention of the Rule 46A of the IT Rules.*

*2. For that, the Ld. CIT(A), NFAC, Delhi has also erred in facts by allowing the claim of the assessee that its entire income exempt u/s 10(26) of the Income Tax Act, 1961 without giving the Assessing Officer any opportunity to examine under Rule 46A(3) of the IT Rules, 1961 the evidences or documents produced by the assessee before Ld. CIT(A), NFAC, Delhi.*

*3. The Appellant craves leaves to add, alter and amend any of the grounds of appeal at the time of hearing/pendency of appeal.*

3. Brief facts of the case are that the assessee is an individual and a resident of Nagaland and belongs to the Scheduled Tribe which is recognized under the Constitution (Scheduled Tribe) Order 1950 as amended by the Scheduled Castes Ind-Scheduled Tribes List (Modification) Order 1956 and the Constitution (Nagaland) Scheduled Tribes Order 1970. The assessee had made cash deposits amounting to



₹2,66,07,000/- in her bank account during the FY 2015-16 but did not file her ITR for the relevant AY 2016-17, therefore, the case was selected for scrutiny and statutory notices were issued to the assessee but there was no compliance. Hence, the Assessing Officer (hereinafter referred to as Ld. 'AO') completed the assessment and assessed the total income at ₹2,66,07,000/- by making addition u/s 69A of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) stating that she could not appear before the Ld. AO during the course of the assessment proceedings as the assessee was not well during the year and the reason for non-appearance was pregnancy of the lady who had delivered a male child on 30<sup>th</sup> March 2021. The assessee also challenged the reassessment proceedings u/s 148 of the Act since the notice was never served upon the assessee personally. It is stated that the assessee is from the Scheduled Tribe of Nagaland and is exempt from Income Tax as per section 10(26) of the Act. The assessee is an agriculturist having paddy field and timber plantation in Longsa village under Mokokchung district. As regards the show cause notice, it was stated that the same was never served upon or issued to the assessee because no date of the notice is given in the assessment order of the show cause notice cum draft assessment order. It was prayed to give a chance to produce all the evidences and books of accounts before the Ld. CIT(A) which could not be produced at the Ld. AO's level so that the assessee gets full justice as taxing statutes demand tax on earned income and not income which was never earned. It was also stated that if some more opportunity had been given to the assessee, then she would have been able to produce plausible explanation regarding cash deposited with the bank before the Ld. CIT(A). The Ld. CIT(A) vide the impugned appellate order u/s 250 of the Act, deleted the addition of



₹2,66,07,000/- as the assessee was exempted from payment of income tax u/s 10(26) of the Act and accordingly allowed the appeal of the assessee. Aggrieved with the order of the Ld. CIT(A), the Revenue has filed the appeal before the Tribunal.

4. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. DR.

5. The Ld. DR submitted that the assessment order was made u/s 147 r.w.s. 144 r.w.s. 144B of the Act and the assessee is a resident of Nagaland but as no response was filed to various notices issued, the Ld. AO added a sum of ₹2,66,07,000/- being cash deposited in the bank account as unexplained money u/s 69A of the Act. The Ld. CIT(A) did not call for any remand report from the Ld. AO. The assessee owns 20 Hectares of land and paddy is cultivated. He drew our attention to page 14 of the order of the Ld. CIT(A) which mentions that the assessee is a tribal lady and an agriculturist and having a paddy field located at Ozutsu, Longsa village under Mokokchung district measuring 20 (twenty) Hectares, timber plantation located at Yonglak Lenden, Longsa village under Mokokchung district measuring 5 (five) Hectares, plantations located at Ngapozu, Longsa village under Mokokchung district, measuring 6 (Six) acres and a plot of land located at Adempusu Lenden, Longsa village under Mokokchung district measuring 12 (twelve) Hectares which totals up to 39.40 Hectares of agriculture land and she had earned income from the proceeds of agriculture produce sold in the market and received the amount, which also included past earnings and which she had deposited in the bank account.

6. The Ld. DR further submitted that the maximum produce in that area is only 5 tonne per acre and maximum paddy of 100 tonne can be



obtained from the land owned by the assessee. As regards timber, not a single transaction was supported by the transport receipt. The Ld. CIT(A) accepted the contention that the assessee is a tribal woman but the assessee had not disclosed from where she had earned the income. The deposits in the bank account were more than seven times higher than the income shown.

7. We have considered the submissions made by the Ld. DR. As regards non-production of the evidence before the Ld. AO at the time of the assessment proceedings, the reason mentioned in paragraph 7.1 of the order of the Ld. CIT(A) being pregnancy of the lady who had delivered a male child on 30<sup>th</sup> March 2021 and the assessee being a tribal lady who had no knowledge of computer and could not access the computer were mentioned. The Department may have sent the notices through internet/email but in-person or physical notices had not been received by the assessee. The contentions of the assessee were accepted as plausible and the appeal was decided accordingly. The assessee had submitted the copy of Scheduled Tribe Certificate, copy of Indigeneous Inhabitant of Nagaland, copy of Permanent Residential Certificate and copy of the Income Tax Exemption Certificate which were perused and are mentioned at para 7.2.1 of the appeal order that the Ld. CIT(A) had perused and examined the contentions of the appellant and aforesaid documents enclosed by the assessee and in view of the clear and unambiguous provisions of section 10(26) of the Act, the income of the appellant was not liable for taxation and, therefore, the addition made by the Ld. AO was deleted. The ground relating to reopening of the assessment was not adjudicated by the Ld. CIT(A) nor is there any discussion in this regard in the order.

8. The assessee had requested before the Ld. CIT(A) to give a chance to produce all the evidences and books of account which could not be produced at the level of the Ld. AO so that the assessee gets full justice but the same were treated as general in nature and did not require to be adjudicated separately. The Ld. DR submitted that the order of the Ld. CIT(A) may be set aside and as no opportunity was allowed to the Ld. AO to examine the evidences or documents produced before the Ld. CIT(A).

9. We have considered the submissions made. It is relevant to examine the provisions of section 10(26) of the Act which are extracted as under:

*“10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included-*

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*(26) in the case of a member of a Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitu-tion or in the States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971)] or in the Ladakh region of the State of Jammu and Kashmir, any income which accrues or arises to him,-*

*(a) from any source in the areas or States aforesaid, or*

*(b) by way of dividend or interest on securities;”*

9. Thus, every income is not exempted but only the specified items of income are exempted. The Ld. CIT(A) has neither examined the source of income nor done any computation relating to the quantum of income earned by the assessee from agriculture nor any correlation of the agricultural income or any other source for the deposits in the bank



account has been carried out and he has been swayed by the submissions of the assessee without getting the evidences examined by the Ld. AO. It was incumbent upon the Ld. CIT(A) to allow an opportunity to the Ld. AO to examine the additional evidences filed by the assessee as per rule 46A of the I.T. Rules, 1962 which has not been done. Accordingly, the order of the Ld. CIT(A) is hereby set aside and the appeal is restored before him for granting an opportunity of being heard to the Ld. AO and/or allow an opportunity under rule 46A of the Income Tax Rules, 1962 to examine the additional evidences filed and to call for a remand report before considering the additional evidence filed by the assessee as no such details were filed before the Ld. AO. Hence, Ground Nos. 1 and 2 of the appeal are allowed for statistical purposes.

8. Ground No. 3 being general in nature does not require any separate adjudication.

9. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

**Order pronounced on 11<sup>th</sup> 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. **ITO, Ward-1, Dimapur.**
2. **Imkummongla Pongen, Unity Lyngdoh, Near JJ Cables, Nongrim Hills, East Khasi Hills, Shillong, Meghalaya, 793003.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Guwahati Benches, Guwahati.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata