

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 298/GTY/2018
Assessment Year: 2013-14

Assistant Commissioner of Income Tax,
Circle Shillong,
Aayakar Bhawan,
Shillong

.....**Appellant**

vs.

Smti Indu Rani Jha,
C/o Swasti Niwas,
Near Crinoline Swimming Pool,
Barik, Shillong - 793001
[PAN: ADWPJ8835H]

..... **Respondent**

Appearances by:

Assessee represented by : Jaspal Singh Sethi, Advocate
Department represented by : Sanjay Jha, JCIT

Date of concluding the hearing : 18.11.2025
Date of pronouncing the order : 02.12.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter "the Act"), dated 30.08.2018, passed by the Ld. Commissioner of Income Tax (Appeals)-Shillong [hereafter "the Ld. CIT(A)].
2. In this case, the facts in brief may be recapitulated. It is seen that the Ld. AO vide his order dated 01.02.2016, made several additions as discussed in the impugned order as under:

"The Assessing Officer had made a total addition of Rs. 2,70,32,472/- as discussed in para 5 to 7 of the assessment order. The said additions comprised of the following:

1	Deposits in A/c No. 4205000100011015 Punjab National Bank, Laitumkhrach	Rs. 1,38,05,590/-
2	Deposits in A/c No. 912010043484657 Axis Bank, Laitumkhrach, Shillong	Rs. 18,59,341/-
3	Deposits in A/c No. 9120110057351396 Axis Bank, Laitumkhrach, Shillong	Rs. 11,26,194/-
4	Deposits in A/c No. 913010006193894 Axis Bank, Laitumkhrach, Shillong	Rs. 27,06,590/- -----Rs. 56,92,125 <u>Rs. 11,00,000/-</u>
5	Cash deposits in Union Bank of India, Guwahati	Total Rs. 2,05,97,715/-
6	Undisclosed investment in Fixed Deposits	Rs. 32,68,760/-
7	Undisclosed investment in immovable property	<u>Rs. 31,66,0000/-</u>
	Grand Total	Rs. <u>2,70,32,475/-</u>

2.1 Aggrieved with this action, the Revenue has approached the ITAT with the following revised grounds of appeal:

“1. Whether on the facts and in the circumstances of the case, the Ld.CIT(A) was justified in determining the total income of the assessee at Rs.17,69,451/- as against the assessed income of Rs.2,73,21,920/-.

2. Whether on the facts and in the circumstances of the case, the Ld.CIT(A) erred in accepting additional evidence in course of appellate proceedings without proper verification of the same with regard to financial capacity of assessee's son to advance huge gift through misuse of IDS-2016 Scheme as well as cash loans from M/s CMI Foundation. The IDS declaration was made after completion of assessment u/s 143(3) to facilitate explaining the source of investment which had already been assessed u/s 143(3) In violation of IDS, Scheme 2016.

3. Whether on the facts and in the circumstances of the case, the Ld.CIT(A) erred in deleting addition of Rs.1,38,05,549/- as unexplained money in assessee's undisclosed bank account u/s 69A of the IT Act.

4. Whether on the facts and in the circumstances of the case, the Ld.CIT(A) erred in deleting total addition of Rs.49,67,291/- as unexplained money in assessee's various undisclosed bank account u/s 69A of the IT Act.

5. Whether on the facts and in the circumstances of the case, the Ld.CIT(A) erred in deleting addition of Rs.11,00,000/- as unexplained money in saving bank account u/s 69A of the IT Act.

6. Whether on the facts and in the circumstances of the case, the Ld.CIT (A) erred in deleting addition of Rs.30,00,000/- as unexplained investments in Fixed Deposits u/s 69 of the IT Act.

7. Whether in the facts and in the circumstances of the case, the Ld.CIT(A) erred in deleting an addition of Rs.30,50,000/- as unexplained investment in Immovable property u/s 69 of the IT Act.

8. For that the appellant craves leave to add, alter, amend any/ all of the grounds of appeal before or during the course of hearing of the appeal."

2.2 Thereafter, the assessee could substantially succeed before the Ld. CIT(A). A chart has been prepared to indicate the additions and the findings of Ld. CIT(A), for our appreciation:

Description of Addition	Amount of addition				Result in CIT (A) Order with Para no.						Summary of Remarks by CIT(A) for amounts deleted/confirmed
	Total	Cash	Saving Bank / FDR Interest	Non cash	Cash		Saving Bank		Non Cash		
					Deleted	Sustained	Deleted	Sustained	Deleted	Sustained	
Addition of Rs. 1,38,05,590/- Undisclosed Bank Accounts	1,38,05,590	61,46,200	27,349	76,32,000	61,46,200	NIL	NIL	27,349	7,632,000	NIL	<ul style="list-style-type: none"> House property income already declared in ROI Confirmation of credits filed and accepted Saving Bank Interest Sustained as per para 12
Addition of Rs. 56,92,125/- Undisclosed Bank Accounts	18,59,341	17,12,000	19,632	1,27,709	16,62,000	50,000	NIL	19,632	15,000	1,12,709	<ul style="list-style-type: none"> Cash Deposit of Rs. 50,000/- not explained and sustained Saving Bank Interest Sustained as per para 12 Credit of ₹ 1,12,709 not explained and sustained
					Para 7.1.1, Page 6		Para 12, Page 10		Para 7.1.1, Page 6		
					NIL	5,25,000	NIL	1,194	6,00,000	NIL	
Para 7.2.2, Page 7		Para 12, Page 10		Para 7.2.2, Page 7							
	27,06,590	NIL	1,299	27,05,291	N/A	N/A	NIL	1,299	27,05,291	NIL	<ul style="list-style-type: none"> Confirmation of credits filed and accepted Saving Bank Interest Sustained as per para 12
							Para 12, Page 10		Para 7.3.3, Page 7		
Unexplained deposits	11,00,000	11,00,000			11,00,000	NIL	N/A	N/A	N/A	N/A	<ul style="list-style-type: none"> Cash additions explained as per para 8.1
Fixed Deposits	32,68,760	NIL	2,68,760	30,00,000	N/A	N/A		2,68,760	30,00,000	NIL	<ul style="list-style-type: none"> FDR's made in previous AY FDR's made from Saving A/c's already explained FDR Interest Sustained as per para 12
							Para 9.1, Page		Para 9.3, Page 8		
Immovable Property	31,66,000	NIL		31,66,000	N/A	N/A	N/A	N/A	30,50,000	1,16,000	<ul style="list-style-type: none"> Payments amounting to Rs. 30,50,000/- explained and accepted Payment amounting to Rs. 1,16,000/- not explained and sustained
Total	2,70,32,475	94,83,200	3,18,234	1,72,31,000	89,08,200	5,75,000	-	3,18,234	1,70,02,291	2,28,709	

Admittedly, there was minimal compliance before the Ld. AO ostensibly on the ground that considerable documents were seized by the CID, Meghalaya and apparently some documents could be available only at the stage of first appeal. The Ld. CIT(A) called for a remand report on these documents and thereafter adjudicated on the issues involved. A close reading of the impugned order shows that the facts, in certain critical areas, have been dealt with in a cursory manner, for instance on issues where sums of money have been shown to be received from Shri C.M. Jha or from M/s CMJ Foundation. There appears to be no attempt to verify if this individual or entity had the capacity to advance such monies at that point or not at all. Since this matter is basically factual, hence the Ld. DR/AR were heard at length.

3. Before us the Ld. DR supported the Ld. AO's order and argued that a major chunk of cash deposit has been justified by showing, gifts received from the assessee's son, who had made a declaration under the IDS, 2016. Thus, a sum total of Rs. 1,16,16,000/- in cash has been sought to be explained as gift received from Shri Gopal Jha, son of the assessee. The Ld. DR stated that the IDS itself had been filed only on 30.09.2016, whereas the Ld. AO's order was dated 01.02.2016. It was the submission that the Ld. CIT(A) had accepted the assessee's contention regarding the source of funds and disregarded the remand report of the Ld. AO. The Ld. DR, however, fairly admitted that due to lack of documents at Ld. AO's level, some additions were made which did not pertain to the assessment year under consideration.

3.1 The Ld. AR, on the other hand, supported the order of Ld. CIT(A) and stated that the Revenue can have no grievance regarding the cash gifts once the IDS was duly accepted. It was also submitted that all the impugned transactions were duly explained as soon as relevant

documents could be obtained from CID, Meghalaya. The Ld. AR again pointed out the instances where the Ld. AO had made additions of amounts pertaining to earlier years.

4. We have carefully considered the rival submissions and have gone through the records before us. As has been mentioned earlier, this is an entirely facts-based case which has to be decided on the basis of documents and evidences available. Thus, it deserves to be mentioned that neither of the authorities below have cared to delve deeper into the reasons why the CID, Meghalaya has made out a case against the assessee. Also, the benefit of IDS are, admittedly, not available to assessees whose income is chargeable under the Black Money Act, 2015; Prevention of Corruption Act, and certain offences under the Indian Penal Code (as it then was). It is felt that enquiries need to be made from CID, Meghalaya about the nature of allegations against the assessee and the status of the case against her. Also, the sums received from M/s CMJ Foundation and Shri C.M. Jha need to be examined for their genuineness etc. In para 6.4 at pages 5 and 6 of the impugned order, the Ld. CIT(A) has been dismissive of the fact that a return of income has not been filed by M/s CMJ Foundation for AY 2013-14 and has merely stated that in the past the foundation was filing returns with substantial income and thus has held the transactions with them to be genuine for the present year. Such a presumption cannot be accepted, without any verification. Furthermore, the rental income received by the assessee would be acceptable, subject to necessary verification. Considering the totality of facts and circumstances of this case, and the difficulty in culling out the facts clearly, we deem it fit to set aside the impugned order and remand this case back to the file of Ld. AO, with the following directions:

(i) The Ld. AO would segregate all deposits, etc. pertaining to earlier years and give relief for any computation of income.

(ii) The Ld. AO would ascertain the status of the case against the assessee from CID, Meghalaya and thereafter utilize any information received thereon to assess the income of the assessee.

(iii) The gifts received from the son would be examined for veracity and it would be examined whether the immunity provided under IDS would help the assessee to what extent.

(iv) The transactions with Shri CM Jha and M/s CMJ Foundation would be examined carefully for checking the genuineness etc. of the same. If need be, the concerned persons would be examined personally.

Needless to say, the assessee would be given opportunity at all stages of the hearing.

5. In result, this appeal is partly allowed for statistical purposes.

Order pronounced on 02.12.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 02.12.2025
AK, Sr. PS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches