

**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. 62/GTY/2018**  
**Assessment Year: 2013-14**

**Sh. Chandra Mohan Jha,**  
Near Crinoline Swimming Pool,  
Barik, Shillong - 793001  
[PAN: ADWPJ8837F] .....

**Appellant**

**vs.**

**ACIT, Circle-  
Shillong** .....

**Respondent**

**I.T.A. No. 78/GTY/2018**  
**Assessment Year: 2013-14**

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

.....**Appellant**

**vs.**

**Shri Chandra Mohan Jha,**  
C/o Swasti Niwas,  
Near Crinoline Swimming Pool,  
Barik, Shillong - 793001  
[PAN: ADWPJ8837F] .....

**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 cross appeals filed by the assessee and the revenue

arise from the order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), dated 26.01.2018, passed by the Ld. Commissioner of Income Tax (Appeals)-Shillong [hereafter “the Ld. CIT(A)].

2. The facts in this case are relevant for adjudicating the matter and thus the same may be mentioned in brief. During the course of assessment proceedings, the Ld. AO noted that even when the assessee was simply a salaried person, he had made large deposits of cash in various bank accounts. Attempts were made by the Ld. AO for eliciting explanations for such deposits, but the assessee was unable to provide any significant details, admittedly due to the fact that considerable documents of the assessee were seized by CID, Meghalaya. Thereafter, the Ld. AO relied on the ITD system to unearth not only the cash deposits, but also investments in immovable property, term deposits in banks and investments in mutual funds. The Ld. AO made the following additions in more or less, an exparte manner:

(i) Rs. 21,22,58,822/- (cash u/s 69A of the Act)

(ii) Rs. 7,52,834/- as unexplained personal expenses

(iii) Rs. 1,27,58,993/- as undisclosed investments u/s 69 of the Act.

(iv) Rs. 25,00,000/- as undisclosed investments u/s 69 of the Act.

(v) Rs. 2,32,06,500/- again as unexplained investment u/s 69 of the Act.

(vi) Rs. 41,25,000/- as unexplained cash deposit u/s 69A of the Act.

2.1 Aggrieved with this action, the Revenue (ITA No. 78/Gty/2018) 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 unjustified in determining the total income of the assessee at Rs.52,28,871/-as against the assessed income of Rs. 25,64,55,886/.*

*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 ID5-2016 Scheme as well as cash loans from M/s CMJ 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 an addition of Rs.20,86,67,681/- as unexplained money in undisclosed bank account of the assessee u 69A of the IT Act.*

*4. Whether on the facts an in the circumstances of the case, the Ld.CIT(A) erred in deleting an addition of Rs.7,52,834/- on account of undisclosed/unexplained personal expenditure through credit card.*

*5. Whether in the facts and in the circumstances of the case, the Ld.CIT(A) erred in deleting an addition of Rs. 1,25,00,000/- as unexplained investments in Fixed Deposits u/s 69 of the IT Act.*

*6. Whether on the facts and in the circumstances of the case, the Ld CIT(A) erred in deleting an addition of Rs. 25,00,000/-as unexplained Investments in Mutual Funds u/s 69 of the IT Acts*

*7. Whether in the facts and in the circumstances of the case, the Ld.CIT(A) erred in the deleting an addition of Rs.2,32,06,500/- as unexplained investments in immovable property u/s 69 of the IT Act.*

*8. Whether in the facts and in the circumstances of the case, the Ld CIT(A) erred is deleting an addition of Rs 36,00,000/- as unexplained cash deposits in undisclosed back accounts u/s 69A of the IT Acts.*

*9. 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 Aggrieved with this action, the Assessee (ITA No. 62/Gty/2018) has approached the ITAT with the following grounds of appeal:

*“1. That the appellate order as passed is against law and facts of the case.*

*2. That the learned Commissioner of Income Tax (Appeals) has erred in upholding an addition of Rs.32,91,141/-. In spite of the fact that confirmation to that effect was duly filed.*

*3. That the learned Commissioner of Income Tax (Appeals) has erred in L upholding an addition of Rs. 5,25,000/- as cash deposited in the bank in Union Bank of India, in spite of the fact that the same was duly explained in the cash flow statement.*

*4. That the learned Commissioner of Income Tax (Appeals has erred in upholding the addition of Rs. 2,58,937- on account of accrued interest of FDR when the same was duly explained during the course of hearing and ahead included in the return of income.*

5. That the additions as made are highly accessible and arbitrary.

6. That the appellate as passed is not sustainable on the facts and circumstances of the case.”

2.3 During the course of first appellate proceedings, the assessee could, apparently obtain some documents seized by the CID, Meghalaya and submitted the same before the Ld. CIT(A). Thereafter, a remand report was called from the Ld. AO and the same was submitted vide the Ld. AO's letter dated 25.03.2017. Unfortunately, the said remand report is cryptic and the Ld. AO is seen to have simply mentioned that since ample opportunities were provided during assessment stage to the assessee, hence at first appellate stage the provision of such new evidence was unacceptable. The following portion of the remand report deserves to be extracted:

*“Additional evidence produce by the assessee at this state is not acceptable. Since these additions were made on undisclosed bank account, count, expenses in credit cards, undisclosed cash deposit. Further more evidence like cash gift received from his son Shri. Govind Jha, PAN-AGFPG8171N was made from the IDS Declaration 2016 which was after completion of assessment year and completion of assessment u/s 143(3) of the Act dated 05/03/2016. Cash loan received as shown in the paper book from CMJ University is not acceptable since it is violated the provision of section 269SS of the Act and file of the assessee CMJ University is assessed in this Circle under CMJ foundation PAN-AAATC6117A and filed return upto A.Y 2012-13 and same was assessed u/s 143(3) of the Act on 31.03.2015. So the additional evidence produce by the assessee is not acceptable.”*

We cannot but express sadness and displeasure at the casual manner in which this report has been prepared, but the fact remains that the plethora of documents submitted before the Ld. CIT(A) were virtually unexamined at the Ld. AO's stage and the Ld. CIT(A) has, in the absence of an adequately drafted remand report, adjudicated the various issues mainly on the basis of details and explanations filed by the assessee. The present cross-appeals arise from the relief given by him and the additions sustained thereon. The actions of the Ld. CIT(A) have been captured in a tabular form, prepared with the help of both the Ld. DR/AR as under:



3. Before us the Ld. DR argued with the help of submissions prepared by the Ld. AO. The Ld. DR took us through the contours of various additions and stated that the Ld. CIT(A) had fallen in error in granting relief to the assessee. The Ld. DR read out from the written submissions, some portions of which deserve to be extracted as under:

*"It is to be kindly noted that M/s. CMJ Foundation did not file any ITR for the A.Y.2013-14, whereas loan confirmations filed by the appellant before the Ld. CIT(A) were accepted.*

*The Ld. CIT(A) erred in accepting the contention of the assessee w.r.t. the so called loans received and investments made through the sources of such loans which were not supported by any ITR. He also accepted the additional evidences without proper verification of the same w.r.t. the financial capacity of assessee's son to advance huge loans through misuse of IDS mechanism and advance huge gift through misuse of IDS-2016 Scheme as well as cash loans from M/s CMJ Foundation. It is also pertinent to mention that 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.*

*Whereas, in the Remand Report [copy enclosed], the AD duly reported that these additions were made on undisclosed bank account, expenses in credit cards, undisclosed cash deposit. Further more evidence like cash gift received from his son Shri Govind Jha, PAN-AGFPG8171N was made from the IDS Declaration 2016, which was after completion of A.Y. and after completion of assessment u/s 143(3) of the Act on 05.03.2016, Further, Cash loan received as shown in the paper book for CMJ University is not acceptable, since it is violated the provisions of sec.26955 of the Act. Also, M/s. CMJ Foundation filed its ITR upto the A.Y.2012-13 and the same was assessed u/s.143(3) on 31.03.2015, So, additional evidence produced by the assessee is not acceptable*

*The CIT (A) simply citing that an amount of Rs.75,00,000/- (by cheque), Rs.36,60,000/- (received from LIC), Rs.71,997/- (saving bank interest), Rs.15,898/- (saving bank interest), Rs.36,005/- (saving bank interest), Rs.86,03,774/- (Cash deposits explained as gift received from Shri Gopal Jha, son), Rs. 11,12,00,856/- (cash deposits which was unexplained before the AO during assessment), Rs. 2,85,82,280/- Rs.1,12,48,160/-, Rs.27,594/- and Rs.3,77,21,117/-(Cash Deposits) totaling Rs.20,86,67,681/- were received from CMJ Foundation by way of transfer through bank account, he did not appreciate the fact that M/s. CMJ Foundation had not filed the ITR for the A.Y. 2013-14 and also the purpose of transfer of the said amount is not clear, whether it was salary, loan, gift or for any other consideration, which was not put before the AO nor the Ld. CIT(A).*

*Further, the assessee being an interested person (founder and trustee) of the trust M/s. CMJ Foundation, the trust cannot advance money, loan etc for the benefit of the interested person as per section 13(1) of the IT Act, 1961 and as M/s. CMJ Foundation had not filed the ITR for the A.Y.2013-14, the same cannot be verified and treated as genuine. Further, whether the loan had been shown by the appellant in his balance sheet or not, remains a question. The Ld. CIT(A) has erred on this issue(s).....*

*As per the IDS-2016, a declarant cannot disclose any income which has already declared by him in his ITR which has already been considered. However, the declarant can avail of the immunities in respect of any income disclosed which is over and above the assessed income where the assessment is completed. The IDS 2016 Rules [ copy enclosed] clearly states that while making the declaration:*

*Clause (h) the income declared is not chargeable to tax under the Income Tax Act for any previous year.*

*(i) Where a notice u/s.142 or 143(2) of 148 or 153A or 153C of the IT Act 1961 has been received in respect of such A.Y. and the proceeding is pending before the AO.*

*In this regard, I would also like to rely on the decision of the Hon'ble Supreme Court reported in [2022] 136 taxmann.com 373 (SC) / [2022] 287 Taxman 649 (SC) [28/03/2022 wherein it has been held that ". declaration made under IDS would provide immunity only to declarant and no immunity would be provided from taxation in hands of a non-declarant assessee - Held, yes.....". [ copy enclosed ].*

*Hence, my reliance placed upon the order passed by the Ld. AO.”*

3.1 Per contra, the Ld. AR supported the findings of the Ld. CIT(A) wherever relief was given and assailed the action with respect to quantum of income confirmed at first appellate stage. During the course of hearings over a period of time, the Ld. AR has filed several iterations of written submissions on various issues. The Ld. AR took us through the relevant portions of such written submissions which deserve to be extracted selectively for the sake of clarity. The relevant portions form the Ld. AR's submissions on the Revenue's appeal are as under:

*“Ground 2*

*The ground is general in nature and not directed against any specific relief provided in the order of the CIT(A)*

*It is incorrectly noted that the assessee has received cash loans from M/s. CMJ Foundation. There is no record of such 'statement' anywhere in the assessment order or the appellate order.*

*Further, the claim of the revenue that the IDS declaration was made after the assessment u/s. 143(3) of the LT. Act is incorrect. It is also submitted that the revenue claim that there was some violation of IDS scheme is incorrect. As a matter of fact, there was no IDS declaration in the case of the defendant assessee. Despite having filed the appeal for more than 5 years, the revenue has not filed any paper book or any other document or argument in support of the ground of appeal substantiating the claim*

*The defendant assessee relies upon the findings of the Commissioner of Income Tax (Appeals) in the order as passed.*

*Ground-3*

*The ground taken by the revenue is general in nature and does not specifically point any irregularity in the order of the CIT(Appeals).*

*The CIT(A) has passes detailed reasoning in para 5 (Page 4 to 12 of the order) while allowing the claim of the assessee.....*

*Ground-4*

*The ground taken by the revenue is general in nature and does not specifically point any irregularity in the order of the CIT(Appeals).*

*The CIT(A) has passed detailed reasoning in para 6.3 (Page 13 of the order) while allowing the claim of the assessee.....*

*Ground-5*

*The ground taken by the revenue is general in nature and does not specifically point any irregularity in the order of the CIT(Appeals).*

*The CIT(A) has passed detailed reasoning in para 7.3 (Page 15 of the order) while allowing the claim of the assessee and providing that the Fixed deposits pertain to earlier assessment years.....*

*Ground 6*

*The ground taken by the revenue is general in nature and does not specifically point any irregularity in the order of the CIT(Appeals).*

*The CIT(A) has passed detailed reasoning in para 8.2 (Page 16 of the order) while allowing the claim of the assessee and stating that the investments are out of the bank accounts of the assessee and the credits in the banks have been explained in detail.....*

*Ground-7*

*The ground taken by the revenue is general in nature and does not specifically point any irregularity in the order of the CIT(Appeals).*

*The CIT(A) has passed detailed reasoning in para 9.3 (Page 17 of the order) while allowing the claim of the assessee.....*

Regarding the assessee's appeal, the Ld. AR's submissions are as under:

*"Ground-2*

*It may kindly be noted that the amount of Rs. 32,91,141/- was received by the appellatant assessee from Cong El. The confirmation of account giving the details of the amounts received was also filed before the Commissioner of Income Tax (Appeals) and is filed herewith also. The appellatant has filed a small paper book*

*numbering into 14 pages wherein the conformation as noted above is available at Page No. 1 of the paper book. It may kindly be noted that Mrs. Cong El being a tribal does not file her Income Tax Return and as such the same could not be provided. The confirmation duly provides for the address and the PAN for identification.*

*Ground-3*

*It may kindly be noted that the appellant assessee had explained the amount of Rs. 5,25,000/- as cash deposit before the learned Commissioner of Income Tax (Appeals). Para 10.2 of the order of the CIT(A) does mention the fact that the amount is reflected in the cash flow statement. As a matter of fact, the various cash deposits in the different banks were explained by way of the cash flow statement and detailed in Para 5.4 of the order. The cash flow statement as filed was duly accepted by the CIT(A). However, while adjudicating the amount of Rs. 5,25,000/- the CIT(A) overlooked the amount of Rs. 5,25,000/- which was a part of the cash flow statement.*

*The copy of the cash flow statement as filed before the CIT (Appeals) is enclosed and available at Page No. 10 to Page No. 14 of the paper book. The specific transaction of Rs. 5,25,000/- is reflected at Page No. 14 of the paper book and highlighted for your kind perusal and record. The written submissions filed before the learned Commissioner of Income Tax (Appeals) wherein such amount was explained is also provided herein. The amount of Rs. 5,25,000/- is reflected at Page No. of the written submissions. As such the amount of deposit in the bank stands explained as being deposited out of the available cash in hand with the appellant assessee.*

4. We have carefully considered the rival submissions, have gone through the records before us and have also considered the written submissions from both sides relevant portions from which have been extracted supra. Right at the outset, it needs to be mentioned that the present matter is exclusively a fact based matter and it is in this area that we feel considerably hampered at this stage. Thus, broadly speaking, the assessee is a salaried employee who has deposited more than Rs. 10 Crores in cash for which no justification was provided before the Ld. AO on the ground that relevant documents were seized by CID, Meghalaya. Thereafter, the assessee managed to obtain certain documents, which were filed before the Ld. CIT(A), who called for a report from the Ld. AO. The relevant remand report from the Ld. AO is sketchy and indicated a regrettable lack of focus and verification. The Ld. CIT(A) has thereafter,

used the sketchy remand report to believe the assessee's contention on most issues and has granted very substantial relief. We find no evidence of any attempt to examine the linkages between the deposits, investments, etc. and the explanation offered by the assessee. Thus, for instance, the IDS declaration by the assessee's son to the tune of Rs. 4,26,00,008/- has been used to justify cash deposits of Rs. 3,09,71,000/- by the assessee. There is no visible effort by any of the authorities below to examine the dates of deposits of cash in assessee's accounts with the movement of funds in the son's account and how the said transaction matches with the dates of declaration, etc. We find no attempt to examine as to the extent of benefit that can be availed by the assessee on account of IDS done by the son, who is most certainly an assessee in his own right. At this stage, the judgment reported in 136 taxmann.com 373 (SC) comes to mind where it has been held in para 34 that: *"This Court is, therefore, of the opinion that the High Court fell into error, in holding that the sequitur to a declaration under the IDS can lead to immunity (from taxation) in the hands of a non-declarant."*

4.1 We also observe that the Ld. CIT(A) has taken pains to point out that substantial quantum of deposits considered to be in cash were actually transfer entries from other bank accounts, notably from one M/s CMJ Foundation (pages 4 to 7 of the impugned order.) While there can be no quarrel with such a factually correct finding by the Ld. CIT(A), but we find that exclusive reliance has been placed on the confirmation issued by the said CMJ Foundation. It was informed by the Ld. DR that in the said Foundation's name CMJ stands for Chandra Mohan Jha (assessee). If this be so then such confirmations would be, prima facie, self-serving documents, which at least merit a deeper probe with respect to the genuineness of transaction and the capacity of M/s CMJ Foundation to advance such sums, especially when the said Foundation has not filed its return of income for AY 2013-14. Moreover, there has been no probing into

the reasons for and the nature of such transactions. We also cannot be blind to the fact that the assessee is being probed by the CID, Meghalaya for some alleged misconduct. We find no attempt to determine the fate of such enquiry and whether any findings there would have any bearing on determining this assessee's correct tax liability. Furthermore, there are serious errors pointed out by the Ld. CIT(A), for instance that an addition of Rs. 11,12,00,856/- as a cash deposit by the assessee, was actually deposits made in the bank account owned by M/s CMJ Foundation (para 5.9 at page 7 of the impugned order). Also, Rs. 32,30,000/- received by one Cong EI has been claimed by the assessee, through a confirmation from that person, but was not verified at any stage. Furthermore, significant transactions done by M/s CMJ Foundation have been added in the assessee's hands, etc.

4.2 Considering the illustrative, and by no means an exhaustive, list of factual inaccuracies as per discussion above, about the gaps in fact finding, reliance on IDS done by son to justify cash deposit by the assessee, and heavy reliance on seeking justification of impugned transactions in the assessee's hands vis-à-vis M/s CMJ Foundation, we deem it fit to set aside the impugned order and remand this matter to the file of Ld. AO for fresh assessment, with the following directions:

(i) The Ld. AO would segregate transactions done by M/s CMJ Foundation and grant relief, wherever due, from the earlier additions. However, loan transactions or any similar transactions which are claimed to be used by the assessee, would be examined with respect to their genuineness, etc.

(ii) The IDS declaration would be examined carefully and the sums declared there would be linked with dates, etc. to any gifts received by the assessee. The Ld. AO would be free to take any view, as per law, in case the cash transactions do not match.

(iii) The assessee would get relief on any amount added twice over in case it can be linked that a withdrawal in one account resulted in a consequent deposit in another.

(iv) The Ld. AO would enquire from CID, Meghalaya about the progress in their case and obtain any relevant document that they may have which could be useful in determining the correct income of the assessee, and also to see if any of the exceptions clauses could be triggered in the IDS done by the assessee's son which may have a bearing on the transactions sought to be justified in that light.

(v) Investments in movable assets (mutual funds, etc.) and immovable assets would be examined for the reliability of sources of funds for these investments.

(vi) The Ld. AO would examine the Principal Officer of M/s CMJ Foundation for probing the genuineness of transactions with the assessee. Cong Eli would also be examined with respect to the claim that fees was collected and deposited in the assessee's accounts by him/her.

5. With the above directions these two appeals are remanded back to the Ld. AO.

6. In result, both these appeals are partly allowed.

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