

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2844/Del/2025
(ASSESSMENT YEAR 2019-20)

Mr. Bipin Agarwal, 1001-1006, 10 th Floor, Narain Manzil, 23, Barakhamba Road, New Delhi-110101. PAN-AEWPA2901C	Vs.	Asst. CIT, Central Circle-II, Noida.
(Appellant)		(Respondent)

Appellant by	Shri Rajiv Khandelwal, CA and Shri Jaind Jaiswal, Adv.
Respondent by	Shri Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing	18.11.2025
Date of Pronouncement	17.12.2025

ORDER

PER YOGESH KUMAR U.S., JM:

This appeal is filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)-3, Noida ["Ld. CIT(A)", for short], dated 08.04.2025 for Assessment Year 2019-20.

2. Brief facts of the case as mentioned in the order of the Ld. CIT(A) are as under:

“3. The AO has mentioned that a search and seizure action u/s 132 of the Income-Tax Act, 1961 was conducted on CFM Group of Companies on 08.12.2021. As per AO, from the findings of the search action, it was observed that the CFM Group of Companies was engaged into providing accommodation entries transactions/ non genuine transactions. As per AO, the company availed as well as provided these accommodation entries to various entities/companies. As per AO, on perusal of seized material, a ledger account named "BCM" and images of tally ledger named "Porwal" was found. As per AO, on examination of these seized material, it is observed that CFM Advisor Pvt. Ltd. has made certain payments by the name of commission payments amounting to Rs. 5,50,000/- to Sh. Bipin Agarwal for the FY 2018-19. As per AO, in the statement of Sh. Devdas Prabhakar Nair recorded on oath u/s 132(4) of the Income-tax Act, 1961, Sh. Nair has admitted that the ledger account "Porwal"/"BCM" contains details of such transactions which have been carried out by the CFM Group of Companies for availing bogus and non-genuine entries in their books of accounts. As per AO, Sh D.P Nair on being confronted with the above documents confirmed that the cash transactions recorded in the impugned ledgers were made on the instructions of the assessee i.e. Sh. Omprakash Porwal. However, as per AO, Sh. DP Nair did not provide any other details regarding the cash entries viz. purpose of carrying out such cash transactions and source of such cash. As per AO, the details of one such entry relating to Sh. Bipin Agarwal reflecting in the ledger "BCM" as well as "Porwal" was reproduced by the AO in the assessment order. As per AO, the assessee, Sh. Bipin Agarwal has received Rs 5,50,000/- in cash, the sources of which is not verifiable. Therefore, as per AO, in view of the above and considering the facts of the case, the case was reopened u/s 147 by issuing notice u/s 148 issued on 29/03/2023 after taking approval from

the specified authority under the Income Tax Act 1961. As per AO, during the course of the assessment proceedings u/s 147, the assessee was given several opportunities to present his case. As per AO, all the replies and submissions filed by the assessee have been duly considered and found to be devoid of merits. As per AO, as per the ledger seized, the assessee has received the impugned amount of Rs. 5,50,000/- from CFM Advisors Private Limited on 01.03.2019. As per AO, the relevant part of the seized ledger depicting the impugned journal entry of Rs. 5,50,000/- on 01.03.2019 is reproduced in the assessment order by the AO. As per AO, it is pointed out that the invoices submitted by the assessee dated 01.03.2019 and 12.12.2018 bear amounts Rs. 1,18,00,000/- and Rs. 59,00,000/- and the impugned journal entry bearing amount Rs. 5,50,000/- dated 01.03.2019 is not verifiable from the invoices submitted by the assessee indicating receipt of amounts over and disclosed amounts. Therefore, as per AO, the explanation of the assessee regarding the nature and source of the impugned amount received by the assessee is not found to be satisfactory. As per AO, considering the principle of natural justice, the assessee was again given another opportunity of being heard vide show-cause notice issued dated 20.11.2023. As per AO, in response to the aforementioned show-cause notice, the assessee filed his reply dated 23.11.2023. As per AO, the contention of the assessee that his name was not appearing anywhere in the seized documents was duly considered and letter was sent to the Deputy Commissioner of Income Tax, Central Circle-7(3), Mumbai requesting to furnish the copy of ledger to verify the same. As per AO, the annexure A-2 to the statement of Shri Devdas Prabhakaran Nair was received from the O/o the Deputy Commissioner of Income Tax, Central Circle-7(3), Mumbai and it was confirmed that the name of the assessee was found in the seized ledger.

Further as per AO, letters dated 28.12.2023 and 11.01.2023 were sent to the Deputy Commissioner of Income Tax, Central Circle-7(3), Mumbai requiring confirmation of the seized ledgers on the basis of which assessment proceedings were instituted on the assessee. As per AO, the impugned ledgers titled "Porwal" were received in the office of the DCIT, Central Circle-II, Noida from the Olo Deputy Commissioner of Income Tax, Central Circle-7(3), Mumbai and it was confirmed that commission payments amounting to Rs.5,50,000/- were received. Thus as per AO, in the light of the enquiries made during the assessment proceedings, the reply of the assessee is found to be devoid of merits. As per AO, the assessee has further contended that the ledger has not been prepared by him and that the assessee cannot be held responsible for the records maintained by a third party. As per AO, the explanation given by the assessee in this regard is not found to be satisfactory. As per AO, the documents seized during the search proceedings clearly indicate that the assessee has actually received the impugned commission and the assessee has failed to provide any documentary evidence to negate the material seized during the search proceedings. As per AO, the impugned ledgers seized during the search proceedings were duly confronted to Sh. Devdas Prabhakar Nair who in his statement on oath recorded on oath u/s 132(4) of the Income-Tax Act, 1961 confirmed that the ledger account "Porwal"/"BCM" contains details of such transactions which have been carried out by the CFM Group of Companies for availing bogus and non-genuine entries in their books of accounts. As per AO, in this light, the contention of the assessee is found to be devoid of merits.

Further as per AO, in the light of the facts stated above, it is evident that the sources and nature of the impugned receipts amounting to Rs.5,50,000/- remain unexplained and the same was added to the total income of the assessee as unexplained money within the ambit of section 69A of the Income Tax Act, 1961.”

3. Aggrieved by the assessment order dated 03.02.2024, assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 08.04.2025 dismissed the appeal of the assessee.

4. As against the order of the Ld. CIT(A) dated 08.04.2025, assessee preferred the present appeal. Ld. Counsel for the assessee has not pressed grounds No.1 & 2. Accordingly, ground No.1 & 2 are dismissed.

5. Further Ld. AR addressing on the ground No.3 of the Assessee's appeal, submitted that the Ld. CIT(A) committed error in upholding the addition of Rs.5,50,000/-made by the AO u/s 69A of the Act on the ground that the assessee has received the commission from CFM Advisors Pvt. Ltd. of Rs.5,50,000/-. The Ld. Counsel for the assessee further submitted that no cash was found with the assessee during the search and seizure operation, therefore, relying on the ratio laid down by the Co-ordinate Bench of the Tribunal in the case of DCIT vs. Yograj Arora in ITA No.2440/Del/2022 dated 07.11.2023 sought for allowing the present appeal.

5. Per contra, the Ld. DR relied on the findings and conclusion of the lower authorities and sought for dismissal of the appeal.

6. We have heard both the parties and perused the materials available on record. It is admitted fact that that no cash has been found in the possession of the assessee. The only document relied for making the addition by the Revenue was the document seized in search action initiated u/s 132 of the Act in the

case of CFM Group of companies wherein it is alleged to have found an information that assessee has received Rs.5,50,000/- from CFM Group/ Sh. Omprakash Porwal. During the assessment proceedings as well as first appellate proceedings, assessee specifically denied of such transaction with CFM Group.

7. However, impugned addition has been made in the hands of the assessee without making further enquiry. In an identical situation, the addition has been deleted by the Ld. CIT(A) which has been upheld by the Tribunal in the case of DCIT vs. Yograj Arora (supra) in following manners:

“9. Admittedly, it is not a case in which the assessee was found to be in possession of the cash of Rs 1.45 crore in search operation. Therefore, it cannot be presumed that the assessee was the owner of the said cash. To attract the provisions of section 69A sine qua non is "ownership" of money etc. which has not been recorded in the books of account. The Ld. AO has made only presumption that the said cash was 'available with the assessee without bringing on record any material in support thereof. Not only that he went a step further and presumed that the assessee paid the said cash to his brother H.K. Arora only on the basis of conjecture and surmises. The assessee offered explanation for the noting made on page 30 of Annexure A-8 duly supported by the documentary evidence which has been rejected by the Ld. AO in total disregard of all the facts, circumstances and the evidence in the case as ordained by the CBDT in its Circular (supra). To apply the provisions of section 69A by the Ld. AO without satisfying the conditions precedent is not sustainable.”

8. By respectfully following the ratio laid down by the Co-ordinate Bench of the Tribunal in the case of Yograj Arora (supra), we delete the addition made by the AO which has been confirmed by the Ld. CIT(A).

9. In the result, the appeal filed by the Assessee is allowed.

Order pronounced in open Court on 17th December, 2025.

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 17.12.2025

Pk/Sr.PS.

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI