

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

ITA Nos.2066 to 2071/Kol/2025

Assessment Years: 2020-21, 2021-22, 2022-23, 2019-20, 2020-21 & 2022-23

Ishtiyaque Ahmed.....Appellant
55, Narkeldanga North Road,
Narkeldanga, Kol-11..
[PAN: AJXPA4337L]

vs.

DCIT/ACIT, CC-4(3), Kolkata.....Respondent

Appearances by:

Shri Manish Tiwari, AR appeared on behalf of the appellant.

Shri Subrata Aich, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : November 10, 2025

Date of pronouncing the order : December 08, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

The captioned appeals have been preferred by the assessee against the separate orders of the Commissioner of Income Tax (Appeals)-27, Kolkata [hereinafter referred to as the "CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 [hereinafter referred to as the "Act"]. ITA Nos.2066 to 2068/Kol/2025 are pertaining to the quantum additions and ITA Nos.2069 to 2071/Kol/2025 are pertaining to levying of penalty u/s 272A(1)(d) of the Income Tax Act (hereinafter referred to as the 'Act') respectively. Since the issues involved in all the appeals are interconnected and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this common order.

2. ITA No.2066/Kol/2025 - Facts in brief are that the assessee is an individual and engaged in the trading business of card board boxes and doing business under the name and style M/s Unique Cardboard Box and the assessee filed his return of income u/s 139(4) of IT Act, 1961 on 03.12.2020 and disclosed total income at Rs 4,18,940/-. The assessee calculated his total income on presumptive basis u/s 44AD of the Act. On 09.08.2021, cash of Rs 25,00,000/- were found in the possession of the assessee by police of Barra Bazar Police Station and the money was seized by police and subsequently, as per direction of the Chief Metropolitan Magistrate, Kolkata the said money was handed over to Income Tax Department by Kolkata Police on 20.12.2021. Ultimately, the assessee was covered under the search operation u/s 132A of the Act and the assessee furnished explanation that out of the seized cash of Rs.25,00,000/-, an amount of Rs 15,50,000/- belonged to him and Rs.9,50,000/-belonged to his mother which she received from her tenants as advance (security money) and in support of his contention, the assessee also furnished copies of six rental agreements between his mother Ashma Bibi and six persons. On the basis of these information reassessment proceedings were initiated by the Assessing Officer by issuing notice u/s 148 of IT Act dated 13/01/2023 and the assessee filed his return of income in response to notice u/s 148 of Act showing same income of Rs.4,18,940/- as computed u/s 44AD on presumptive basis and disclosed in return of income u/s 139(4) of Act. Accordingly, notices u/s 143(2) and 142(1) were issued and the assessee filed submissions along with requisite details and documents for the relevant assessment year. However, the Assessing Officer without issuing any show cause notice, passed assessment order u/s 147/143(3) of Act dated 28/02/2024 assessing total income at Rs 17,84,257/- by making addition of Rs.13,65,317/- as unexplained investment u/s 69 of the Act.

3. Aggrieved by the said order, the assessee preferred an appeal before the ld. CIT(A) wherein the ld. CIT(A) confirmed the addition so made by the Assessing Officer.

4. Aggrieved and dissatisfied, the assessee has come in appeal before us. The ld. AR submitted that in the balance sheet of the assessee as on 31.03.2020, the property disclosed at Rs 12,65,850/- and the same figure was disclosed in the balance sheet of subsequent years and inadvertently at the time of submission of ITR under section 148 dated 27.01.2024, due the clerical mistake, the amount under the head fixed assets declared at nil. Thus, the addition of fixed assets of Rs.13,65,317/- is not justified.

5. Contrary to that, the ld. DR relied on the impugned order.

6. After hearing the submissions of the counsels of the respective parties and perusing the orders of the lower authorities, we find that in respect of the addition of fixed assets of Rs,13,65,317/- as unexplained investment u/s 69 of the Act, the assessee disclosed the property in the balance sheet as on 31.03.2020 at Rs 12,65,850/- and the same figure was mentioned in the balance sheet on 31.03.2019, on 31.03 2021 and also on 31.03.2022 and first three entries of the assets side of balance sheet as on 31.03.2020 of the assessee is as under:

Fixed Assets

Furniture and Fixture

As per last account Rs. 18,019/-

Less Depreciation @10% Rs 1,802/-

Rs 16,217/-

Plant & Machinery Rs. 92,500/-

As per last account

Less Depreciation @10% Rs 9,250/-

Rs 83,250/-

Property

As per last account

Rs 12,65,650/-

Rs 13,65,317/-

6.1 On perusal of the above, it appears that the total of the three entries is Rs.13,65,317/- and the amount of Rs.13,65,317/- was disclosed in the ITR filed under section 139(4) dated 03.12. 2020 and in this case, inadvertently at the time of submission of ITR under section 148 dated 27.01.2024, due to clerical mistake, the amount under the head fixed assets declared at nil. In the light of the above discussion, we note that the Assessing Officer failed bring to any record to prove that the investment of Rs. 13,65,317/- were made during the financial year 2019-20 corresponding to assessment year 2020-21 and hence, we delete the addition made by the AO of Rs.13,65,317/-as unexplained investment under section 69 of the Act.

7. ITA No.2067/Kol/2025 - Facts in brief are that in the present case, the appellant filed his return of income on 18.11.2021 by disclosed total income at Rs.4,08,060/- which was calculated on presumptive basis u/s 44AD of the Act and the return of the appellant was selected for compulsory scrutiny. Accordingly, notices u/s 143(2) and 142(1) were issued and the Assessing Officer passed assessment order by making the following actions:

- a) Addition of Rs.2,12,332/-under the head business
- b) Rejected the declared cash in hand of Rs.9,76,671/- in the return and considered the cash in hand at Rs 6.57 Lakhs
- c) Disallowed capital balance by Rs.3,19,671/-

8. Aggrieved by the said order, the assessee preferred an appeal before the Id. CIT(A) wherein the Id. CIT(A) confirmed the additions so made by the Assessing Officer.

9. Aggrieved and dissatisfied, the assessee has come in appeal before us. The ld. AR submits that the Assessing Officer on the basis of total deposits in two bank accounts of the assessee calculated the total turnover of the business at Rs 72,47,575/- whereas the assessee declared total turnover in the return as Rs. 47,66,000/- and considering the profit 8.56% calculated the total income at Rs.4,08,060/- on presumptive basis. He further submits that that on the basis of the profit calculation of the appellant @ 8.56%, the Assessing Officer calculated the total income of the appellant at Rs.6,20,392/ which is 8.56% of Rs 72,47,575/, so, the Assessing Officer added the excess sum of Rs.2,12,332/- (6,20,392-4,08,060) as income of the assessee, which is not justified. In respect of issue of rejection of declared cash in hand of Rs.9,76,671/- in the return and considered the cash in hand at Rs 6.57 Lakhs, the ld. AR submits that in the return of income and also in the balance sheet, the appellant disclosed the cash in hand at Rs.9,76,671/. The ld. AR also submits that the assessee furnished explanation before the Assessing Officer that out of the seized cash of Rs.25,00,000/-, an amount of Rs 15,50,000/- belonged to him and Rs.9,50,000/-belonged to his mother which she received from her six tenants as advance security money and in support of his contention, the assessee also furnished copies of six rental agreements between his mother Ashma Bibi and six persons. The ld. AR further submits that the Assessing Officer rejected the explanation of cash balance of the appellant without considering the documentary evidences submitted before him and the acceptance of closing cash balance of the appellant at Rs.9,76,671/- on 31.03.2021 by the Assessing Officer is not justified. In respect of issue of non-allowing of benefit of capitalisation of Rs.3,19,671/-, the ld. AR submits that the appellant had disclosed the cash in hand in his income tax return and also in the balance sheet at Rs.9,76,671/-, whereas the

Assessing Officer in the assessment order calculated the cash in hand at Rs 6,57,000/- So, in this process the disclosed income of Rs.3,19,671/- (9,76,671-6,57,000) was not capitalised and the Assessing Officer wrongly made the addition enhancement of closing capital of Rs. 3,19,671/- and the same may be deleted.

10. Contrary to that, the ld. DR relied on the impugned order.

11. After hearing the submissions of the counsels of the respective parties and perusing the orders of the lower authorities, we find that in respect of issue of addition of Rs.2,12,332/- under the head business, the Assessing Officer on the basis of total deposits in two bank accounts of the assessee calculated the total turnover of the business at Rs 72,47,575/- whereas the assessee declared total turnover in the return as Rs. 47,66,000/- and considering the profit 8.56% calculated the total income at Rs.4,08,060/- on presumptive basis. We further find that on the basis of the profit calculation of the appellant @ of 8.56%, the Assessing Officer calculated the total income of the appellant at Rs.6,20,392/ which is 8.56% of Rs 72,47,575/-, the Assessing Officer added the excess sum of Rs.2,12,332/- (6,20,392-4,08,060) as income of the appellant which is not justified as the assessee involved in the business of the card board box, the turnover of the business cannot be determined on the basis of deposits in bank accounts and the Assessing Officer should analyse each of the deposits separately, which has not done by the Assessing Officer. In terms of the above discussion, the addition of Rs.2,12,332/- is deleted. Regarding the action of the Assessing Officer in rejecting cash in hand of Rs.9,76,671/- and determination of the cash in hand at Rs 6,57,000/-, we find that in the return and also in the balance sheet, the appellant disclosed the cash in hand at Rs.9,76,671/- and in course of assessment proceedings

submitted that cash of Rs.25 lakhs was found and the same was belonged to him and my family members and out of 25 lakhs sum of Rs.9,50,000/- belongs to my mother Asina Bibi aged 75 years and received the amount during the relevant assessment year from six tenants as security deposit towards and the details of tenants are as under:

<i>Name of the tenants</i>	<i>Security deposits (Rs.)</i>
<i>Nisar Ahmed</i>	<i>1,50,000</i>
<i>Tabaraz Alam</i>	<i>1,50,000</i>
<i>Md. Azad</i>	<i>1,75,000</i>
<i>Sahid Laskar</i>	<i>1,50,000</i>
<i>Md. Zubair</i>	<i>1,50,000</i>
<i>Md. Samimuddin</i>	<i>1,75,000</i>
<i>Total</i>	<i>9,50,000</i>

11.1 We further find that to substantiate the cash in hand as on 31.03.2021 of Rs.9,76,671/-, the assessee furnished the balance sheet and cash in hand of the appellant was also supported by his GST return. Keeping in view the above discussion, we reject the action of the Assessing Officer for not accepting the closing cash balance of the appellant at Rs 9,76,671/- on 31.03.2021 and hold that the action of the AO is not justified on this issue also. In respect of issue of non-allowing of benefit of capitalisation of Rs.3,19,671/-, we note that the appellant had disclosed the cash in hand in his income tax return and also in the balance sheet at Rs. 9,76,671/-, whereas the Assessing Officer in the assessment order calculated the cash in hand at Rs 6,57,000/-, therefore, the disclosed income of Rs.3,19,671/- (9,76,671-6,57,000) was not capitalised. In this case, the appellant disclosed the cash in hand at Rs.9,76,671/- accordingly calculated the closing capital but the Assessing Officer reduced the cash in hand at Rs.6,57,000/- and the appellant did not get the benefit of capitalisation of Rs.3,19,671/-.

Considering the above discussion, we allow the enhancement of closing capital of the appellant at Rs. 3,19,671/-.

12. ITA No.2068/Kol/2025 – Brief facts in this appeal are that the appellant filed his return of income for the assessment year 2022-23 under section 139 on 16.08.2023, but the same was not accepted by the department and notice under section 148 of the Act was issued on 24.02.2023 and ultimately the appellant filed return of income on 27.01.2024 declaring total income at Rs.6,32,600/-. On 09.08.2021, cash of Rs 25,00,000/- were found in the possession of the assessee by police and the money was seized and was handed to the Income Tax Department. On receipt of the return of income u/s 148 of the Act, the Assessing Officer issued notices u/s 143(2) and 142(1) of the Act and finally, assessment order u/s 143(3)/147 was completed on 28.02.2024 assessing total income at Rs.31,32,660/- by making addition u/s 69A of the Act of Rs.25,00,000/- as unexplained money.

13. Aggrieved by the said order, the assessee preferred an appeal before the ld. CIT(A) wherein the ld. CIT(A) confirmed the addition so made by the Assessing Officer.

14. Aggrieved and dissatisfied, the assessee has come in appeal before us. The ld. AR submits that in response to notice u/s 131 of the Act, the assessee fully explained the source of cash of Rs.25,00,000/- which is as under:

a) Opening cash in hand as on 01.04.2021 was Rs. 9.76 lakhs

b) Cash sales of the proprietorship concern Unique Cardboard Box from 01.04.2021 to 31.08 2021 was Rs. 5.74 lakhs

c) Cash belongs to appellant's mother Ashma Bibi for Rs 9.50 lakhs

The total cash was Rs 25,00,000/-

14.1 The Id. AR further submits that the Assessing Officer has not issued any show cause notice and during the assessment proceedings, the appellant explained the source of the seized cash of Rs.25,00,000/- but the Assessing Officer initiated the re-opening proceedings u/s 147 by issuing notice u/s 148 of the Act on 24.02.2023, therefore, the notice under section 148 is bad in law and may be quashed.

15. Contrary to that, the Id. DR relied on the impugned order.

16. After hearing the submissions of the counsels of the respective parties and perusing the orders of the lower authorities, we find that the assessee is an individual and engaged in the trading business of card board boxes and doing business under the name and style M/s Unique Cardboard Box and on 09.08.2021, cash of Rs 25,00,000/- were seized by police and subsequently, the said money was handed over to the Department. We further find that during the course of assessment proceedings, the assessee explained the source of cash of Rs.25,00,000/- as under:

<i>Opening cash in hand as on 01.04.2021</i>	<i>Rs. 9.76 lakhs</i>
<i>Cash sales from 01.04.2021 to 31.08 2021</i>	<i>Rs. 5.74 lakh</i>
<i>Cash belongs to appellant's mother Ashma Bibi</i>	<i>Rs 9.50 lakhs</i>
<i>total</i>	<i>Rs 25,00,000/-</i>

16.1 We further find that to substantiate the cash in hand as on 31.03.2021 of Rs.9,76,671/-, the assessee furnished the balance sheet and cash in hand of the appellant was also supported by his GST return and the appellant had disclosed the cash in hand in his income tax return and also in the balance sheet at Rs. 9,76,671/-. We also find that in regard to cash sales of Rs.5.74 lakhs, in the course of assessment proceedings, the appellant furnished the purchase bill, sale bills, cash memo etc. and the Assessing Officer was unable to find out any defects in the documents submitted by the assessee and also the appellant stated that all these sale bills were reflected in his GST return and also submitted the copy of GST return. In respect of cash belongs to mother Ashma Bibi of Rs.9.50 lakh, we note that the assessee categorically submitted that out of 25 lakhs, sum of Rs.9,50,000/- belongs to my mother Asina Bibi aged 75 years and received the amount during the relevant assessment year from six tenants as security deposit towards room allotted and we have discussed the issue in our preceding paragraph. It is important to mention here that in this case, the Assessing Officer passed assessment order u/s 143(3)/147 of the Act 28.02.2024 but before passing of assessment order did not issue any show cause notice, so this is violation of the statutory provisions of law. Considering the above discussion, we quash the assessment order and delete the addition of Rs.25,00,000/- u/s 69A of the Act.

17. ITA Nos.2069, 2070 & 2071/Kol/2025 – As the instant appeals are consequent to the quantum appeals in ITA Nos.2066, 2067 & 2068/Kol/2025 which we have already dealt with and decided in favour of the assessee, therefore, the very basis of the impugned penalties levied u/s 272A(1)(d) of the Act in all the instant appeals have now no legs to stand over, therefore, all the impugned penalties are hereby deleted.

18. In the result, all the captioned appeals of the assessee are allowed.

Kolkata, the 8th December, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 08.12.2025.

RS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches