

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(PHYSICAL HEARING)**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

**I.T.A. No. 376/Asr/2023**  
Assessment Year: 2014-15

Naval Kishore Singh,  
Prop. N. K. Enterprises  
126/7, Trikuta Nagar,  
Jammu-180012

[PAN: CDVPB 5195D]

**(Appellant)**

Vs.

Deputy Commissioner of Income  
Tax, Circle-1, Aayakar Bhawan  
Rail Head Complex, Jammu  
180012

**(Respondent)**

Appellant by	:	Sh. Joginder Singh, C. A.
Respondent by	:	Sh. Charan Dass, Sr. D.R.
Date of Hearing	:	24.09.2025
Date of Pronouncement	:	15.12.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 27.10.2023 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the DCIT/ACIT, Circle-1, Jammu u/s 144 of the Act, 1961 dated 28.12.2016.

2. The assessee has taken four grounds in the memo of appeal which relates two issues, firstly on account of addition of Rs.1,94,95,410/- being the claimed brought forward balance of opening capital as on 1<sup>st</sup> April, 2013 as per reflection in the balance sheet for the year under appeal and second issue relates to the disallowance of bank interest of Rs. 14,97,898/-, as claimed in the audited accounts for the year.

3. Brief facts of the case are that the assessee is a civil contractor and has disclosed a net profit of 56.59 lakhs on a total turnover of Rs. 4.50 crores for the year under appeal , and the case was picked for *limited scrutiny* and on examination of the audited balance sheet as at 31<sup>st</sup> March, 2014, closing capital was reflected at Rs.2.88 crores (*as observed by the AO in page – 2 , para – 2 of assessment order* ) and thereafter, the AO has travelled backwards to give a finding that the assessee has disclosed a business profit of Rs.15.16 lakhs in the Asst year 2013-14 u/s 44AD and for the year earlier to that (*ie. AY 2012-13*), he has shown a capital balance of Rs. 78.37 lakhs as on March 2012, and thereafter, the AO has mathematically worked out the probable capital balance available with the assessee to be Rs. 93.53 lakhs for the year ended 31<sup>st</sup> March, 2014 (Rs. 78.37 plus Rs.15.16 ), and since the balance sheet of the assessee reflected the closing capital balance at Rs. 2.88 crores as on 31<sup>st</sup> March, 2014, the difference of Rs. 1,94,95,410/- has been added back to the total income.

4. Apart from above, the bank interest and bank charges debited by the assessee amounting to Rs.14.97 lakhs in audited profit and loss account has been disallowed

due to the fact that the assessee has made an advance for *flat Rs.2 crores ( two crores)* and a further advance of *Rs.11 lakhs* to one Alliance Transport Pvt Ltd , and no interest is shown to be receivable from these parties. *It is clarified that in the assessment order the AO has wrongly stated “taken advance” actually it should be “given advance” because the advance for flat is paid by the assessee and reflected in assets).*

5. Subsequently the assessment was completed on a total income of Rs. 2.63 crores (*with an addition of Rs.1.94 crores on capital a/c plus Rs.14.97 lakhs on a/c of bank interest disallowed*).

6. The matter carried in first appeal, has been adjudicated on the basis of the statement of facts and the grounds of appeal after considering materials on record on merits and the additions has been sustained by the first appellate authority by observing as follows:

*“7.2 In this ground of appeal, the appellant has assailed the addition of Rs. 1,94,95,410/- on account of increase in capital account for AY 2014-15. The appellant is a civil contractor and is a Proprietor of M/s N.K. Enterprises. During the assessment proceedings, the appellant has not furnished any reply in response to the notices issued to him by the AO on various dates. On perusal of the assessment order, it is found that the AO had noticed change in proprietor's capital from Rs. 93,53,991/- in A.Y. 2013-14 to Rs. 2,88,49,401/- in A.Y. 2014-15 i.e. increase of Rs. 1,94,95,410/- in the capital account of the appellant in the A.Y. 2014-15. Further, The AO has also noted the total income of the appellant in previous A.Y. i.e. A.Y. 2013-14 as declared in return of income at Rs. 15,16,494/- derived u/s 44AD of the Act, which is not commensurate with the increase in the capital account of the appellant. The appellant has not submitted any explanation or documentary evidence regarding the source of increase*

*in Capital Account before the AO during the assessment proceedings. Therefore, in absence of any response from the appellant in this regard, the AO added Rs. 1,94,95,410/- in the total income of the appellant for A.Y. 2014-15 on account of unexplained increase in capital account.*

*7.2.1 The appellant has been offered several opportunities in this appellate proceeding. But the appellant has not submitted any evidence in support of the claims made by him in this appeal. In the absence of any explanation or documentary evidences, the claims made by appellant against the addition of Rs. 1,94.95.410 in the total income of the appellant for A.Y. 2014-15 on account of unexplained increase in capital account are not acceptable. Therefore, the addition of Rs. 1,94,95,410/-on account of unexplained increase in capital account, made by the AO vide order u/s 144 of the Act for AY 2014-15 is confirmed. Accordingly, the grounds raised in this appeal are dismissed.”*

7. Regarding the second issue of disallowance of the claim of bank interest the observation of the Ld. CIT(A) is as follows:

*“7.3 In this ground of appeal, the appellant has assailed the addition of Rs. 14,97,898/- on account of bank interest and charges paid against interest free advance for flat. The appellant is a civil contractor and is a Proprietor of M/s N.K. Enterprises and has claimed Rs. 14,97,895/- bank interest and charges The AO had observed that as per the Balance sheet, the appellant taken interest free advance of Rs. 2,00,00,000/- in A.Y. 2014-15 for purchased of flat, which was for his personal benefit and had no concern with his business activity. Further, the AO has also noted that although the appellant had taken loan of Rs. 11.00,001/- from Mis Alliance Transcon Pvt Ltd but no interest was paid. The appellant has not submitted any explanation or documentary evidence regarding claim of bank interest and charges before the AO during the assessment proceedings. Therefore, in absence of any proof from the appellant in this regard, the AO disallowed the appellant's claim of Rs. 14.97.898 as bank interest and charges and added in the total income of the appellant for A.Y. 2014-15.*

7.3.1 *The appellant has been offered several opportunities in this appellate proceeding. But the appellant has not submitted any evidence in support of the claims made by him in this appeal. In the absence of any explanation or documentary evidences, the argument raised by appellant against the disallowance of Rs. 14,97,898 as bank interest and charges for A.Y. 2014-15 is not acceptable. Therefore, the addition of Rs.14,97,898/- on account of disallowance of bank interest and charges for A.Y. 2014-15 is confirmed. Accordingly, the ground raised in this appeal is dismissed.”*

8. Now before the tribunal the Ld. AR of the assessee has referred to the audited balance sheet as *at 31<sup>st</sup> March, 2014*, to submit that the observation of the AO is erroneous and is not as per the facts on record, because as per the balance sheet the opening capital B/f from last year as on *1<sup>st</sup> April, 2013* was *Rs. 2.54 crores* and the net profit for the year under appeal was declared at *Rs. 56.59 lakhs (as per return)* and drawings of the assessee for the year was *Rs.22.13 lakhs*, which has resulted in the closing balance of *Rs.2.88 crores*, which the AO has referred to in the assessment order.

9. He further submitted that in the year under appeal, the AO has accepted the net profit declared by the assessee at *Rs.56.59 lakhs* and has not made any adverse comments regarding the Secured Loans (*from banks*) and Sundry creditors and other outstanding liabilities appearing in the balance sheet as on *31/03/2014*, nor has he given any adverse findings in relation to the assets reflected in the balance sheet.

10. The Ld. AR further submitted that it is only the opening capital as on *1<sup>st</sup> April 2013, (being the B/f balance of immediately preceding years closing as on 31/03/2013)*

amounting to Rs. 2.54 crores, which is disputed by the AO, needs to be proved with documents on record, to the satisfaction of the departmental and appellate authorities.

11. He further referred to the copies of audited balance sheet as on 31<sup>st</sup> March, 2012 (*along with the copies of the ITR filed for the year*) which are all part of assessment records and has also referred to the assets already existing with the assessee prior to 31<sup>st</sup> March, 2013, by way of Fixed assets, Current assets, Tax Deducted at source balance (*receivable*), advance for flat Rs. 2 crores (*two Crores*), which are all paid through bank channel during the period *June 2012 to October, 2012 (duly reflected in bank statements)*, and Bank Fixed deposits and savings deposits including cash in hand totaling Rs.1.11 crores (*out of which cash in hand is only Rs. 56,851/- which is a meagre amount*).

12. The breakup of the schedule of assets as on 31/03/2013 are reproduced for ready reference:

**M/S N.K. ENTERPRISES, JAMMU**

**SUNDRY CREDITORS AS ON 31-03-2013**

ANNEXURE-A

PARTICULARS	AMOUNT
Gohar Builders	6,52,820.00
Banarsi Lal Const. Associates	8,92,710.00
Reenu Associates	3,60,530.00
Yadav Associates	8,92,770.00
Aggarwal Trading Co.	1,35,990.00
Janta Stone Crusher	10,72,943.00
	40,07,763.00

**BILL RECEIVABLE/ ADVANCES**

ANNEXURE-B

PARTICULARS	AMOUNT
Pandey Traders	8,84,270.00
Allied Associates	5,69,170.00
Apex Accacia Valley	4,99,296.00
NJC Hydro Power Limited	9,41,945.00
Power Grid Corporation of India	5,65,824.00
	34,60,505.00

**TDS AS ON 31-03-2013**

ANNEXURE-D

PARTICULARS	AMOUNT
TDS 2002-03	2,594.00
TDS 2003-04	26,574.00
TDS 2007-08	30,302.00
TDS 2008-09	1,02,184.00
TDS 2009-10	1,03,925.00
TDS 2011-12	27,099.00
TDS 2012-13	6,46,213.00
	9,38,891.00

Assets held by the assessee existing as on 31/03/2013:

**CASH & BANK BALANCE**

ANNEXURE-E

PARTICULARS	AMOUNT
Cash in Hand	56,851.76
Punjab N Bank A/C 5752	1,70,769.15
Punjab N Bank A/C 6904	11,206.00
Punjab N Bank A/C 19817	33,090.25
Punjab N Bank A/C 20379	10,543.00
State Bank of India	90,319.32
ICICI Bank A/C 40	26,057.00
FDR'S	1,07,72,505.00
	1,11,71,341.48

**ADVANCE FOR FLAT**

Annexure -F

Installment of Payment Summary of Property by : Mr. Naval Kishor Singh

S.No.	Date	Cheque No.	From Bank	A/C No.	Amount	Payment in Favour of
1	25-Jun-12	706641	PNB	5752	30,00,000	Golden Peacock, Gurgoan
2	28-Jun-12	706642	PNB	5752	30,00,000	Golden Peacock, Gurgoan
3	14-Jul-12	536099	PNB	5752	20,00,000	Lotus Boutverad
4	14-Jul-12	536100	PNB	5752	20,00,000	Lotus Boutverad
5	14-Aug-12	499440	PNB	5752	20,00,000	Lotus Boutverad
6	25-Aug-12	499441	PNB	5752	10,00,000	Lotus Boutverad
7	28-Aug-12	499442	PNB	5752	10,00,000	Lotus Boutverad
8	20-Oct-12	736575	PNB	5752	15,00,000	Golden Peacock, Gurgoan
9	20-Oct-12	736576	PNB	5752	15,00,000	Golden Peacock, Gurgoan
10	22-Oct-12	736574	PNB	5752	15,00,000	Golden Peacock, Gurgoan
11	22-Oct-12	736573	PNB	5752	15,00,000	Golden Peacock, Gurgoan
			<b>TOTAL</b>		2,00,00,000	

Schedule of Furnitures and Vehicles and Cars as on 31/03/2013:

M/S N.K. ENTERPRISES, JAMMU

ANNEXURE OF FIXED ASSETS AS ON 31-03-2013

S.NO	PARTICULARS	OPENING BALANCE	ADDITIONS		SALE	TOTAL	RATE	DEPRECIATION	CLOSING BALANCE
			BEFORE	AFTER					
1	Office	32,62,360.00	-	-	-	32,62,360.00	0%	-	32,62,360.00
		32,62,360.00	-	-	-	32,62,360.00		-	32,62,360.00
2	Furniture & Fixture	1,46,319.00	-	-	-	1,46,319.00	10%	14,631.90	1,31,687.10
		1,46,319.00	-	-	-	1,46,319.00		14,631.90	1,31,687.10
3	Machinery	13,71,613.00	-	-	-	13,71,613.00	15%	2,05,741.95	11,65,871.05
4	GPS	1,16,565.00	-	-	-	1,16,565.00	15%	17,484.75	99,080.25
5	VEHICLES	7,29,603.00	-	-	-	7,29,603.00	15%	1,09,440.45	6,20,162.55
6	A.C	42,627.00	-	-	-	42,627.00	15%	6,394.05	36,232.95
7	BOLERO	-	5,71,080.00	-	-	5,71,080.00	15%	85,662.00	4,85,418.00
8	XEROX MACHINE	52,989.00	-	-	-	52,989.00	15%	7,948.35	45,040.65
		23,13,397.00	5,71,080.00	-	-	28,84,477.00		4,32,671.55	24,51,805.45
9	COMPUTER	2,62,560.00	-	-	-	2,62,560.00	60%	1,57,536.00	1,05,024.00
		2,62,560.00	-	-	-	2,62,560.00		1,57,536.00	1,05,024.00
		<b>59,84,636.00</b>	<b>5,71,080.00</b>	<b>-</b>	<b>-</b>	<b>65,55,716.00</b>		<b>6,04,839.45</b>	<b>59,50,876.55</b>

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*[Handwritten signature]*

13. The Summary of the same are also reproduced for ready reference:

<i>SUMMARY OF ASSETS as on 31/03/2013</i>			
<i>CASH and Bank Balance</i>			<i>1,11,71,341.00</i>
<i>( including Fixed Deposits )</i>			
<i>Advance for Flat through Bank</i>			<i>2,00,00,000.00</i>
<i>Fixed Assets ( after depreciation )</i>			<i>59,50,876.00</i>
<i>TDS ( balance Receivable )</i>			<i>9,38,891.00</i>
<i>Bills Receivable</i>			<i>34,60,505.00</i>
			<b><i>4,15,21,613.00</i></b>
<i>Less Liabilities as on 31/03/2013</i>			
<i>Sundry Creditors</i>	<i>40,07,763.00</i>		
<i>Expenses payable</i>	<i>5,43,627.00</i>		
<i>Secured Loans</i>			
<i>from PNB</i>	<i>96,57,992.00</i>		
<i>ICICI Bank</i>	<i>19,08,726.00</i>		<i>1,61,18,108.00</i>
			<b><i>2,54,03,505.00</i></b>

14. Thereafter, he referred to the balance sheet and the ITR for the year ending 31/03/2012 ( *Asst year: 2012-13* ), (which is two years earlier to the year under appeal), to submit that most of the assets existing as on 31/03/2013 are existing since the Asst year 2012-13 , and the investment in flat amounting to Rs 2 crores , has been invested during the *FY 2012-13 ( AY 2013-14 )* through bank transfer and are all recorded in bank statement , and no such fresh investment has been made in the year under appeal. He further submitted that it is natural that all the existing assets held by the assessee as

on 31/03/2013, has to be carried forward as opening balance as on 01/04/2013, which has been done by the assessee in this case and the same cannot be legally disputed.

15. He further submitted that the AO is only considered the profits disclosed for the Asst year 2013-14, (u/s 44AD) plus the closing capital as on 31/03/2012 (Rs. 78.37 lakhs) to determine the opening capital as on 01/04/2013, which is erroneous, because the assets acquired during the FY 2012-13 through bank channel, has been totally ignored.

16. Moreover, he explained that the balance sheet as on 31/03/2012, are available on assessment record (because the AO has mentioned the correct balance in the assessment order) and assets as per the above schedules existing as on 31/03/2013, cannot be denied because all are physically verifiable and very much existing and are TANGIBLE assets (*and cash in hand is very meagre balance of Rs. Fifty-six thousand only which is not significant*).

17. The copy of the balance sheet as on 31<sup>st</sup> March, 2012, as existing in departmental record (as referred to by the AO in his order) is reproduced for ready reference:

**M/S N.K. ENTERPRISES, JAMMU**

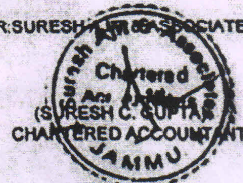
**BALANCE SHEET AS ON 31-03-2012**

LIABILITIES		AMOUNT	ASSETS	AMOUNT
<b>PROP'S CAPITAL AC</b>			<b>FIXED ASSETS</b>	
OPENING BALANCE			AS PER ANNEXURE:-C	5864636.00
ADD: NET PROFIT	6596848.84			
	2407212.00			
	9004080.84			
LESS:- DRAWING	1166563.00	7837497.84	<b>CURRENT ASSETS</b>	
			BILL RECEIVABLE / ADVANCES	1125143.00
			AS PER ANNEXURE:-D	
<b>SECURED LOANS</b>			<b>SECURITY &amp; DEPOSITS</b>	
PUNJAB N. BANK (OD)	4201381.96		TAX DEDUCTED AT SOURCE	1238364.00
PUNJAB N. BANK (CAR LOAN)	109089.00	4310450.96	AS PER ANNEXURE:-E	
			<b>CASH &amp; BANK BALANCE</b>	
<b>CURRENT LIABILITIES</b>			AS PER ANNEXURE:-F	11298946.80
SUNDRY CREDITORS		6783502.00		
AS PER ANNEXURE:-A				
<b>EXPENSES PAYABLE</b>				
AS PER ANNEXURE:-B		684639.00		
AUDIT FEE PAYABLE		30000.00		
		<u>19646089.80</u>		<u>19646089.80</u>

AS PER OUR REPORT OF DATE.

PLACE: JAMMU  
DATED: 14-09-2012

FOR: SURESH ANAND ASSOCIATES



18. Before concluding the assessee referred to the decision of the *Hon'ble Rajasthan High Court in the case of CIT v Parmeshwar Bohra reported 301 ITR 404 (Rajasthan)*

[2008], in support of his claim that a carry forward amount of the previous year does not become an investment or cash generated during the relevant year.

19. In support of his contention he further relied on the following tribunal decisions of the coordinate bench:

- “(i) *The Hon’ble ITAT Ahmedbad in the case of ITO v. Babubhai Khanji Patel HUF ITA No. 342 and 4293/Adh/2007*
- (ii) *The Hon’ble ITAT, Lucknow Bench in the case of DCIT v. Sh. Satish Chandra Pandey, ITA No. 525/Lkw/2010 dated 30.03.2011*
- (iii) *The Hon’be ITAT Jodhpur Bench in the case of Naveen Bolia v. ITO, Udaipur, ITA No. 176/Jodh/2023 dated 07.03.2024*
- (iv) *The Hon’ble ITAT, Bangalore in the case of Puttappa T.K. v. ITO, ITA No. 547/Bang/2019 dated 17.03.2022”*

20. He prayed for deleting the addition wrongly made.

21. Regarding the disallowance of interest of *Rs.14.97 lakhs*, made by the AO due to advance made by the assessee amounting to *Rs.2 crores for flat* and the advance of *Rs. 11 lakhs* to *Alliance Transcon*, both of which are of a personal nature of benefit, it is submitted by the assessee that the said payments against flat is made out of personal interest free funds during the earlier year (FY 2012-13) and no borrowed funds has been used. He further submitted that the interest paid on account of OD limit from his bankers are wholly, exclusively and fully utilized for the purpose of business and as such the interest claimed on such OD limit is allowable business expenses u/s 36

(1)(iii), of the Act 61 and he prayed that the same may be allowed. In support of his contention he further relied on the Apex court judgement in the case of CIT v Reliance Industries Ltd [2019] where it has been held that on the face of factual findings that interest free funds are available to meet its investment it should be presumed that investment has been made out of interest free funds and also on the decision *Munjjal Sales Corporation v CIT 298 ITR 298 ( SC )* to submit that interest free advances will not call for disallowance if the same is met out of interest free Capital . He prayed for deletion of the addition.

22. The Ld. DR relied on the order of the CIT ( A ) and submitted that during the course of assessment there has not been any representation before the AO and as such it was not possible for the AO to ascertain whether the funds utilized by the assessee for investment in flat and in the said Alliance Transcon , are out of capital (*own funds*) as claimed by the assessee , which can only be determined after necessary verification of all particulars . He however, has not countered the explanation of the assessee regarding the opening capital balance brought forward from earlier years and the supporting balance sheets of earlier years (*on assessment record*) and the existence of tangible assets as on 31/03/2013, which is physically apparent and agreed that the same cannot be legally denied.

23. We have heard the rival submissions and considered the materials on record and the balance sheet of earlier years referred to by the assessee and the summary of assets

held by the assessee on 31<sup>st</sup> March, 2013, represented by bank fixed deposits, investments in flat (through bank channel), schedule of fixed assets and other receivables , which are all physically existing as on 31<sup>st</sup> March 2013 , and the closing capital on the said date is also worked out after adjustment of liabilities ( *including bank loans and trade creditors*) leaving a closing capital balance of Rs.2,54,03,505/- as on 31<sup>st</sup> March, 2013, which is the brought forward balance as on 1<sup>st</sup> April, 2013. We have also noted that the cash balance as on 31<sup>st</sup> March, was only Rs.56,851/- which is very nominal balance and the rest of the assets are all tangible assets which cannot be ignored.

24. It is the case of the assessee that this B/F balance of Rs.2.54 crores plus the profits for the year Rs.56.59 lakhs (*as per return*) minus the drawings of Rs.22.13 lakhs, for the year, will result in the closing Capital balance of Rs. 2.88 crores as on 31<sup>st</sup> March, 2014, which has been disputed by the AO and since all the earlier years balance sheets and returns are on record, the brought forward capital cannot be disputed and we are also of the opinion that there is no new investment made during the year by the assessee in the flat and the investment is the B/F balance of immediately preceding year which has flown out of disclosed bank account. As such considering the totality of the facts and circumstances of the case and respectfully relying on the decision of *Hon'ble Rajasthan High court* in the case of *CIT v Parmeshwar Bohra ( supra )* that carry forward amount of previous year does not become an investment or cash

generated during the relevant year, we have no hesitation in deleting the addition of Rs. 1.94 crores made on A/c of brought forward capital from previous year.

25. As such this ground of appeal of the assessee is allowed.

26. Regarding Ground No 3 which is in respect of disallowance of bank interest and charges amounting to Rs. 14,97,898/- as claimed by the assessee being a business expenditure u/s 36(1)(iii), we find that this expenditure is a part of the indirect expenses claimed in the profit and loss A/c for the FY 2013-14 ( *year under appeal* ) and the assessment has been completed *ex parte u/s 144* of the Act '61, and in course of first appellate proceedings also , there was no submission on this issue that the loan obtained by the assessee against which interest is claimed as expenses in profit and loss account, has been fully, wholly and exclusively utilized for the purpose of business of the assessee , and this aspect of the matter needs to be examined by the AO on the basis of materials and documents , including books of accounts to be produced by the assessee, and as such we are of the opinion that interest of justice would be best served if this ground no – 3, is remanded to the AO for fresh consideration on the basis of evidences and submissions to be filed by the assessee and the assessee is also directed to furnish his submission along with evidences to explain his claim of bank interest u/s 36(1)(iii) of the Act 61.

27. As such this ground of appeal is set aside to the AO for fresh consideration on the basis of evidence and explanation to be filed by the assessee justifying the claim.

28. In the result, the ground of appeal No. – 2 is allowed and ground No. – 3 is allowed for statistical purposes.

29. On the whole, the appeal of the assessee is partly allowed.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 15.12.2025

**Sd/-**  
**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order