

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “SMC” BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

[THROUGH VIRTUAL MODE]

**ITA No.49/DDN/2025
[Assessment Year : 2017-18]**

Saurav Malik 100/2, Bell Road Clement Town Near Hilton School, Dehradun Uttarakhand-248002 PAN-BDYPM6527J	vs	ITO 15A, Subhash Road, Uttarakhand
APPELLANT		RESPONDENT
Assessee by	Shri Rajiv Sahini, CA	
Revenue by	Shri A.S. Rana, Sr. DR	
Date of Hearing	09.10.2025	
Date of Pronouncement	24.12.2025	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the assessee against the order dated 31.01.2025 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld. CIT(A)”] in Appeal No. CIT(A), Dehradun/10345/2019-20 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of assessment order dated 05.11.2019 passed u/s 143(3) of the Act pertaining to Assessment Year 2017-18.

2. Brief facts of the case are that assessee e-filed his return of income on 29.10.2017, declaring total income of INR 7,59,830/-. The case was selected for complete scrutiny under CASS with the reason that “Abnormal increase in cash deposits during

demonetization period as compared to pre-demonetization period.” Accordingly, notice u/s 143(2) was issued followed by notices u/s 142(1) alongwith questionnaire issued from time to time. In response, assessee furnished the required information/documents. Thereafter, AO passed the assessment order dated 05.11.2019 u/s 143(3) of the Act assessing total income of assessee at INR 90,89,685/- by holding the cash credited in his bank accounts as his undisclosed income u/s 69A of the Act.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) which stood dismissed vide order dated 31.01.2025.

4. Aggrieved by the order of Ld. CIT(A), the assessee is in appeal before the Tribunal by taking following grounds of appeal:-

*“1. **Ground 1: Unexplained Cash Deposits** - The AO made an addition of 269,36,030/- on account of unexplained cash deposits during the demonetization period, treating the entire deposit as undisclosed income under Section 69A. The appellant disputes this addition on the following grounds: The AO failed to bifurcate the deposited cash between old and new currency. A certificate from the bank indicates that the Specified Bank Notes (SBNs) deposited were much lower than what was added as unaccounted income. There is no evidence in the order suggesting that cash deposits during the demonetization period were abnormally increased. The deposits were made from daily sales proceeds, and no part of the amount should be treated as unaccounted.*

*2. **Ground 2: Unsecured Loans** - The AO made an addition of 8,19,785/- on account of unsecured loans, treating them as bogus. The appellant submits that: The loans were received from genuine sources, including the appellant's parents and other individuals. Supporting documentation such as loan confirmations and bank statements are available and will be submitted. The AO's conclusion was solely based on the non-submission of documents, without providing the appellant with an adequate opportunity to present them. The addition is unfair and should be deleted.*

3. **Ground 3: Losses and Deductions under Chapter VIA-** *The AO disallowed deductions amounting to 75,74,040/- under Chapter VIA, including interest on housing loans. The appellant contends that: The disallowance was arbitrary and unjustified. The appellant has valid supporting documents, including housing loan interest certificates. The deductions should be allowed based on documentary evidence.*

4. **Ground 4: Bonafide Business Transactions-** *The appellant has conducted all transactions in the regular course of business.. Due to the perishable nature of milk, daily cash collections and deposits were necessary, including during the demonetization period. The appellant had to accept old currency from customers and deposit it in the bank as part of normal business operations. The entire cash deposit should be treated as genuine business income.*

5. **Ground 5: Right to Modify-***Grounds The appellant reserves the right to amend, alter, or modify the grounds of appeal before or during the hearing if new evidence or facts emerge.”*

5. During the course of hearing, Ld. AR for the assessee vide letter dated 14.07.2025 filed additions grounds of appeal under Rule 27 of the Income Tax Appellate Tribunal Rules, 1963 which reads as under:-

“1. That in any case and in any view of the matter, the Assessing Officer issuing the Notice under Section 143(2) did not have jurisdiction over the case of the Appellant and therefore the Notice dated 9.8.2018 and the consequential assessment made under Section 143(3) of the Act is invalid and void ab-initio.

2. That in any case and in any view of the matter, the condition of giving reasonable opportunity of hearing to the Assessee under Section 127 of the Income Tax Act, 1961 was not complied with before transferring the jurisdiction of the case from Delhi to Dehradun after the issue of Notice under Section 143(2) on 9.8.2018.”

6. Ld. AR submits that the legal grounds now taken are purely legal in nature and goes to the root of the matter and requires no investigation thus, the same be admitted for adjudication. He placed reliance on the following judgements:-

- (i) CIT vs. Sinhgad Technical Education Society, (2017) 397 ITR 0344 (SC)
- (ii) NTPC Ltd. vs. CIT, (1998) 229 ITR 0383 (SC)
- (iii) VMT Spinning Co. Ltd. vs. CIT & Anr., (2016) 389 ITR 0326 (P&H)
- (iv) CIT vs. Sam Global Securities, (2014) 360 ITR 0682 (Del)
- (v) Siksha vs. CIT, (2011) 336 ITR 0112 (Orissa)
- (vi) Inventors Industrial Corporation Ltd. vs. CIT, (1992) 194 ITR 0548 (Bom).

7. On the other hand, Ld. Sr. DR for the Revenue submits that additional grounds of appeal require verification on the part of the AO therefore, the same should not be admitted at this stage.

8. After considering the submissions and perused the additional grounds of appeal taken, we find that the assessee has challenged the validity of the assessment order on the ground of jurisdiction as the notice u/s 143(2) of the Act was issued by the AO having no jurisdiction over the assessee and the assessment was completed by another AO without transfer of jurisdiction in terms of the order u/s 127 of the Act. Therefore, by respectfully following the judgement of Hon'ble Supreme Court as relied upon by the assessee, the additional grounds of appeal are admitted for adjudication.

9. First, we take additional Grounds of appeal Nos.1 & 2 raised by the assessee.

10. Before us, Ld. AR submits that in the instant case, notice u/s 143(2) was issued by ITO, Ward-43(1), Delhi and the assessment was completed by ITO, Ward-2(3), Dehradun. However, ITO, Ward-43(1), Delhi has no jurisdiction over the assessee as the assessee

is residing at Dehradun and the case is fallen under the territorial jurisdiction of the Assessing Officer at Dehradun. In this regard, Ld.AR drew our attention to the letter issued by ITO, Ward-43(1), Delhi through which case of the assessee was transferred to ITO, Ward-2(3), Dehradun however, no order u/s 127 was passed by the competent authority for transfer of case. Ld.AR further submits that in the said letter, ITO, Ward-43(1), Delhi stated that the AO i.e. ITO, Ward-2(3), Dehradun issue fresh notice u/s 143(2) however, no such notice was ever issued and the assessment was completed by the ITO, Ward-2(3), Dehradun on the basis of incorrect notice issued u/s 143(2) of the Act by ITO, Ward-43(1), Delhi. Ld. AR thus, prayed that the assessment order passed by ITO, Ward-2(3), Dehradun is without assuming jurisdiction and therefore, deserves to be held as invalid and be quashed.

11. On the other hand, Ld. Sr. DR for the Revenue supported the orders of the lower authorities and submits that ITO, Ward-43(1), Delhi had issued notice u/s 143() of the Act as the PAN was lying with him and since the territorial jurisdiction over the assessee was with ITO ward 2(3), Dehradun, therefore, he sent the file to the correct AO having jurisdiction over the assessee. He thus, submits that there is no error in this process consequently, the additional grounds of appeal raised by the assessee deserve to be dismissed.

12. Heard the contentions of both parties and perused the material available on record. It is seen that in this case, assessee filed an application for supply information about the filed

application for under RTI Act and finally the First Appellate Authority issued a letter dated 02.09.2025 wherein it is stated that ITO, Ward-43(2), Delhi has transfer the jurisdiction to ITO, Ward-2(3), Dehradun however, no order u/s 127 was passed in this case. The relevant copy of the letter is reproduced as under:

F. No. ITO/W-1(1)(3)/DDN/RTI Appeal/2025-26/ 544

Date: 02.09.2025

To,

Shri Saurav Malik, C/o M/s. R.Sahni and Company,
Chartered Accountants, 51-52 Anekant Place,
29 Rajpur Road, Dehradun (U.K) -248006

Sir,

Sub: RTI : First Appeal filed by Shri Saurav Malik, PAN: BDYPM6527J- reg.

Kindly refer to the above-mentioned subject.

2. In this regard, you have filed First appeal before the First Appellate Authority i.e. The Addl. Commissioner of Income Tax, Range-1(1), Dehradun against the order dated 31.07.2025 passed by the undersigned u/s 7(1) of the RTI Act, 2005.

3. In the appeal you have sought for the following information:-

"1. The appellant made an application on 15.7.2025 seeking information on points as under: -

"(a) Copy of letter sent by the AO Ward 43(1), Delhi transferring the jurisdiction in my case to you.

(b) Copy of the order passed under section 127 by the CCIT/PCIT Delhi {charge of Ward 43(1)} approving the transfer of jurisdiction from Delhi to Dehradun.

(c) Copy of the notice sent to me by the CCIT/PCIT {charge of Ward 43(1)} under section 127(2)(a) of the Income-tax Act, 1961 and also proof of delivery of such notice, in case the same has been issued otherwise than online through the portal of the department.

2. The Income Tax Officer in his order dated 31.7.2025 denied the information stating that the records/ folder is not readily traceable".

4. The First Appellate Authority vide its order dated 26.08.2025 passed u/s 19(6) of the RTI Act, 2005 has directed this office to provide the information available. In view of the same, the desired information is given as under: -

a) Copy of letter no. ITO W-43(1)/CASS-II/2018-19/181 dated 23.08.2018 received from Ward 43(1), Delhi transferring the jurisdiction is enclosed.

1(b) No order passed u/s 127 of the Income-tax Act, 1961 in your case has been found with the assessment records and hence, cannot be provided.



1(c) No such notice u/s 127(2)(a) of the Income-tax Act has been found with the assessment records and hence, cannot be provided.

Yours faithfully,

Encl: As above

(Gambhir Singh)
Central Public Information Officer/
Income Tax Officer, Ward-1(1)(3),
Dehradun

Copy to:

First Appellate Authority -The Addl. Commissioner of Income Tax, Range-1(1), Dehradun

Central Public Information Officer/
Income Tax Officer, Ward-1(1)(3),
Dehradun

13. It is further seen that ITO, Ward-43(1), Delhi vide letter dated 23.08.2018 had transferred the case to the ITO, Ward-2(3), Dehradun and advised the AO at Dehradun to issue fresh notice u/s 143(2) of the Act. However, no any fresh notice u/s 143(2) of the Act was issued by ITO, Ward-2(3), Dehradun. The relevant copy of the letter is reproduced as under:-

OFFICE OF THE
INCOME TAX OFFICER
WARD -43(1), BLOCK - E-2, ROOM NO.-2609,
PRATYAKSH KAR BHAWAN, CIVIC CENTRE,
MINTO ROAD, NEW DELHI-110002
PHONE-011-23661361

F.No.- ITO W- 43(1)/CASS-II/2018-19/ [&] Dated- 23/08/2018

To,
The Income Tax Officer,
Ward-2(3), Dehradun
Uttarakhand

Sir,

Sub: Intimation of 2nd Cycle of CASS selection in the following case pertains to your jurisdiction: reg.

Kindly refer to the above.

2. In this connection, the following case has been selected for scrutiny in the 2nd cycle of CASS through ITD/ITBA.

Sr.No	Name and Address of the assessee	PAN No.	A.Y.	Return Income
1	SAURAV MALIK	BDYPM6527J	2017-18	759830

03. Though the PAN by default is with this ward, but the jurisdiction over the case lies with you as per latest information filed by the assessee in his/her ITR. A notice u/s 143(2) may kindly be issued at your end in view of the recent judicial decision favouring assessee on this issue. You are also requested to put online request for PAN migration.

04. In case, if the case(s) does not pertain to your jurisdiction same may please be transferred to the jurisdictional A.O. Issue of Notice u/s 143(2) may kindly be intimated to this office.

Encl: Copy of Notice and Return.

Copy to :

1. Asst.CIT, Range-43, New Delhi - For kind information.

Yours faithfully
(Preeti Rai)
Income Tax Officer
Ward 43(1), New Delhi

Income Tax officer
Ward 43(1), New Delhi

14. As could be seen from the above that admittedly notice u/s 143(2) was issued by the AO who was not having jurisdiction over the assessee and the AO having jurisdiction over the assessee, had completed the assessment without issue of valid notice issued u/s 143(2) of the Act to assume jurisdiction in the case of assessee for passing the order u/s 143(3) of the Act.

15. The Hon'ble Delhi High Court in the case of **Abhishek Jain vs ITO, Ward-55(1), New Delhi [2018] 94 taxmann.com 355 (Delhi)** under identical circumstances held that the notice issued without jurisdiction has no legs to stand. The relevant observations of the Hon'ble Supreme Court are as under:-

“23. In view of the above discussion, objections as to the jurisdiction of assessing officer in the present case cannot be equated with lack of subject matter jurisdiction. They relate to place of assessment. Income-Tax Officer Ward 1(1), Noida would not per se lack jurisdiction, albeit he had concurrent jurisdiction with the Income-Tax Officer Ward 36(1)/58, Delhi. In the facts of the present case the contention raised about the lack of jurisdiction would not justify quashing the notice under Section 147/148 of the Act.”

16. In view of these facts and in the circumstances of the case, we hereby hold that assessment order passed by ITO, Ward-2(3), Dehradun is without jurisdiction and is invalid and thus is hereby, quashed. The additional grounds of appeal taken by the assessee are allowed.

17. Since we have already allowed additional grounds of appeal, the other grounds of appeal are taken on merits, hence not adjudicated.

18. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 24.12.2025.

Sd/-
(YOGESH KUMAR U.S)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date:- 24.12.2025
Amit Kumar, Sr. P.S

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT