

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, DELHI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 6167/DEL/2025 (AY: 2015-16)
(Physical hearing)

Sat Narayan Sharma Village & Post Office Bohar, Dist. Rohtak, Haryana – 124021. [PAN: AFJPS5702B]	Vs	Ward-2, Rohtak AayakarBhawan, Rohtak, Haryana – 124001.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Arun Kumar Jain, Advocate
Revenue by	Shri Virender Kumar Singh, Sr. DR
Date of hearing	04.12.2025
Date of pronouncement	17.12.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of Id. CIT(A) / NFAC dated 25.08.2025 for A.Y. 2017-18. The assessee has raised following grounds of appeal:

"1. The order of the id. Commissioner of Income Tax (Appeals) NFAC is bad both in the eye of law and on facts.

2. On the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals) NFAC has erred both on facts and in law in confirming the order passed by the Assessing Officer for initiating proceedings u/s 147 of the Income Tax Act despite the same being initiated in violation of the statutory provisions of the Act and procedure prescribed under the law and as such the same is bad in the eye of law and liable to be quashed.

3. The initiation of re-assessment proceedings u/s 147 of the Income Tax Act is bad in law as the proceedings started in the case are Time barred.

4. The Id. Commissioner of Income Tax (Appeals) NFAC has erred in confirming the initiation of Proceedings u/s 147 of the Act on the basis of Wrong, Incorrect and without verifying the facts recorded for the formation of belief of escapement of Income that the appellant has deposited Rs. 52,00,000/- in the Bank account instead of Rs. 26,75,000/- which is illegal and void.

5. The Id. Commissioner of Income Tax (Appeals) NFAC has erred in confirming the initiation of reassessment proceedings and the approval wrongly granted without application of mind and without verifying the facts from the records for issue of notice u/s 148 of the Income Tax Act.

6. The Id. Commissioner of Income Tax (Appeals) NFAC has erred in confirming the addition of an amount of Rs. 26,75,000/- made by the Assessing Officer to the Income of the appellant u/s 69A of the Income Tax Act and has not considered the explanation and source of deposit in the Bank account.

7. The Id. Commissioner of Income Tax (Appeals) NFAC has erred in confirming the order of assessing officer in charging of interest of Rs. 6,60,240/- u/s 234A of the Income Tax Act.

8. The appellant craves leave to add, amend, alter, substitute or forgo any ground of appeal at the time of hearing.”

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id AR) of the assessee submits that case of assessee for A.Y. 2015-16 was reopened by issuing notice under section dated 07.04.2022. Copy of notice under section 148 is placed at page no. 8 of paper book. The case of assessee was reopened after passing order under section 148A(d) dated 07.04.2022. The assessee was supplied the basis of issuance of show cause notice under section 148A(b), wherein, the assessing officer annexed the information available with him that as per such information the assessee has made cash deposit of Rs. 52.00 lakh in State Bank of India during F.Y. 2014-15. In response to such show causes notice, the assessee filed reply dated 30.03.2022. In the reply, the assessee specifically stated that he is agriculturist having 8 acre of agriculture land and he made a cash deposit of Rs. 26,75,000/- in Punjab National Bank. Such cash was deposited against advance of sale of

agriculture land. The sale transaction was not materialised and the advance amount was returned in next financial year. The assessing officer instead of considering the reply of assessee concluded that it a fit case for issuing notice under section 148, despite recording all such facts in order under section 148A(d) dated 07.04.2022. The assessing officer ultimately in the assessment order has made addition of Rs. 26,75,000/-. The lower authorities have not considered the source of cash deposit. The Id. AR submits that admittedly the case of assessee for A.Y. 2015-16 was reopened beyond three year from the end of relevant financial year. Since the alleged income escaped and ultimately addition in the assessment order is less than Rs. 50 lakh, thus, notice under section 148 is bad in law and subsequent action was initiated on notice is void ab initio.

3. On the other hand, the learned Senior Departmental Representatives (Id. Sr. DR) for the Revenue supported the order of lower authorities.
4. I have considered the rival submissions of both the parties and perused the orders of lower authorities carefully. I have also perused the order of assessing officer passed under section 148A(d) and 148A(d). I find that in response to notice under section 148A(b), the assessee in his reply dated 30.03.2022 specifically contended that cash deposit in his bank account was only of Rs. 26,75,000/- and explained the source of cash deposit. The assessee also furnished the bank statement showing the total cash deposit. I find that the assessing officer instead of verification of fact concluded that it is a fit case for reopening under section 148. I further find that ultimately the assessing officer made addition of Rs. 26,75,000/-

in the assessment order. Thus, admittedly the income escaped from assessment is less than 50 lakh. The case of assessee is clearly falls under section 149(b). Thus, reopening beyond three years from the end of relevant assessment order is not permissible if income escaped from assessment is less than 50 lacs. Therefore, notice under section 148 is invalid consequent action of assessing officer is void ab initio.

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

Order was pronounced in the open Court on 17 /12/2025.

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 17/12/2025
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai