



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH “SMC”, LUCKNOW  
BEFORE SHRI KUL BHARAT, VICE PRESIDENT**

ITA No.598/LKW/2025  
Assessment Year: 2014-15

<b>Alok Kumar Rungta</b> B-40 Flat No.34 Manoram Apartment Aliganj, Lucknow- 226024.	v.	<b>National Faceless Appeal Centre</b> Delhi.
<b>PAN:AJQPR0755G</b> (Appellant)		(Respondent)

Appellant by:	Shri Vijay Prakash Agarwal, Advocate Shri Akshay Agarwal, Advocate		
Respondent by:	Shri R. R. N. Shukla, Addl CIT(DR)		
Date of hearing:	28	10	2025
Date of pronouncement:	08	01	2026

**O R D E R**

**PER KUL BHARAT, VICE PRESIDENT.:**

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 21.07.2025, pertaining to the assessment year 2014-15. The assessee has raised the following grounds of appeal: -

- “1. That the notice issued by the Learned Assessing Officer u/s 148 in contradiction of CBDT instruction NO. 225 dt. 04/03/21 is bad in law and is liable to be quashed.
2. That the notice u/s 148 issued by the Learned Assessing Officer on the basis of direction of Learned CIT (Appeal) is bad in law.
3. That the notice u/s 148 issued on the basis of reason to believe recorded by Learned CIT (Appeal) is bad in law.
4. That the notice u/s 148 has been issued by the Learned Assessing Officer for the same addition which were deleted by the CIT(A) against original assessment is bad in law.
5. That the notice issued u/s 148 issued by Learned Assessing Officer without bringing new tangible material on record after four years is bad in law.

6. *That the appellant case was selected for limited scrutiny and the Learned Assessing Officer has not completed the original assessment as per law an as per instruction of CBDT and the notice issued u/s 148 to cover up the lapses (against instruction of CBDT for limited scrutiny) in original assessment is bad in law and is liable to be quashed.*

7. *That the learned lower authorities has not justified in making and retaining the addition of Rs 14,08,400/- for unsecured loan.*

8. *That the learned assessing officer has not justified in making and retaining the addition of Rs.1,16,417/- for expenses claimed from commission income.*

9. *That the assessment order is against the merit, circumstances and legal aspects of the case.”*

2. The facts in brief are that, in this case, the assessee had filed his return of income on 05.06.2015, declaring total income at Rs.3,95,260/-. Thereafter, the case was taken up for limited scrutiny under Computer Assisted Scrutiny System (CASS) and thereafter the assessment was framed u/s 143(3) of the Income Tax Act, 1961 (“Act”, for short). Thereby, the Assessing Officer (“AO”, for short) assessed income at Rs.19,20,080/-. It is noteworthy that in the original assessment, the Assessing Officer made additions on account of unsecured loans obtained from seven persons and a further addition of Rs.1,16,417/- towards undisclosed commission income. Aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A). The primary objection raised by the assessee before the Ld. CIT(A) was that the case was selected for limited scrutiny, whereas the AO conducted complete scrutiny and made additions on issues beyond the scope of limited scrutiny, which was in utter violation of the CBDT Instructions. While adjudicating the appeal, the Ld. CIT(A), directed deletion of the additions so made by the AO; however, at the same time, he further directed the AO to reopen the assessment by exercising the power u/s 150(1) of the Act. In pursuance of the directions of the Ld. CIT(A), the AO proceeded to reopen the assessment by issuing notice u/s 148 of the Act on the same issues which were the subject matter of the original

assessment, namely, unsecured loans amounting to Rs.14,08,400/- and commission income of Rs.1,16,417/-. Thereafter, the AO, after issuing a draft assessment order, passed the impugned assessment order, thereby repeating the very same additions which were originally made in the assessment order passed u/s 143(3) of the Act. Aggrieved, the assessee preferred in appeal before the Ld. CIT(A) who sustained the additions and dismissed the appeal of the assessee. Now, the assessee is in appeal before this Tribunal.

3. Apropos to the grounds no. 1 to 6 that have been raised against the validity of the re-opening of assessment u/s 147 of the Act, the Ld. Counsel for the assessee reiterated the submissions as made in the synopsis. He contended that the orders passed by the lower authorities are bad in law, as the assessment itself is contrary to the statutory provisions of law laid down by the various courts. He further contended that the order is bad in law, firstly, on the ground that the Ld. CIT(A) exceeded his jurisdiction by recording reasons to believe that the appellant had failed to disclose income and by directing the Assessing Officer to re-open the assessment. The Ld. Counsel for the assessee contended that the direction was issued u/s 150 of the Act. He contended that the Ld. CIT(A) could not have issued such a direction. In this regard, he drew our attention to section 150 of the Act to buttress his contention that the Ld. CIT(A) is required to exercise his powers within the limits provided u/s 251 of the Act. He contended that there is no ambiguity under the law that in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment. He contended that the direction for re-opening is beyond the authority conferred upon the Ld. CIT(A) under the statute. He further

contended that any action taken in pursuance of such an illegal direction would be a nullity in the eyes of law.

4. For the sake of clarity, section 251 of the Income Tax Act, 1961 (“Act”, for short) is reproduced as under: -

**“251. (1) In disposing of an appeal, the Commissioner (Appeals) shall have the following powers—**

- (a) *in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;*  
*71[Provided that where such appeal is against an order of assessment made under section 144, he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment;]*
- (aa) *in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 245HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;*
- (b) *in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;*
- (c) *in any other case, he may pass such orders in the appeal as he thinks fit.*

**[(1A) In disposing of an appeal, the Joint Commissioner (Appeals) shall have the following powers—**

- (a) *in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;*
- (b) *in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;*
- (c) *in any other case, he may pass such orders in the appeal as he thinks fit.]*

**(2) The 72[Joint Commissioner (Appeals) or the] Commissioner (Appeals) 72[, as the case may be,] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.**

*Explanation.—In disposing of an appeal, the 72[Joint Commissioner (Appeals) or the] Commissioner (Appeals), may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) 72[, as the case may be,] by the appellant.”*

5. From the above, it is evident that the Ld. CIT(A) is impowered to confirm, reduce, enhance or annul the assessment. In the present case, the Ld. CIT(A) had cancelled the original assessment order dated 29.03.2022 but he further issued direction u/s 150 of the Act. For the sake of clarity, section 150 of the Act is reproduced hereinbelow: -

***"150. Provision for cases where assessment is in pursuance of an order on appeal, etc.***

*(1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or re-computation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision [or by a Court in any proceeding under any other law]."*

6. From the aforesaid provision, it is clear that a notice u/s 148 of the Act can be issued at any time for the purpose of making an assessment, reassessment, or re-computation in consequence of, or to give effect to, any finding or direction contained in an order passed by any authority in any proceedings under the Act by way of appeal, reference, or revision, or by a court in any proceedings under any law. The assessee, through Grounds Nos. 1 to 6, is primarily aggrieved by the order of the Ld. CIT(A) passed in the original assessment, thereby he allowed the appeal of the assessee and while exercising powers u/s 150(1) of the Act, directed the Assessing Officer to reopen the assessment. The said order of the Ld. CIT(A) is not under challenge before this Tribunal. As per the provisions of section 150(1) of the Act, the Assessing Officer, in pursuance of a direction contained in an order passed by an authority in any proceedings under the Act by way of appeal, is empowered to issue a notice u/s 148 of the Act at any time for the purpose of making an assessment or reassessment. Therefore, so far as the action of the Assessing Officer is concerned, no fault can be found. The contention of the assessee that the action of the Assessing Officer was in utter disregard of the CBDT Instructions is misplaced, as the said Instructions were not issued keeping in view the provisions of section 150(1) of the Act. The case laws relied upon by the Ld. Counsel for the assessee are not applicable to the facts of the present case, as the same are clearly distinguishable. The assessee ought to have challenged the

findings of the Ld. CIT(A) passed in appeal against the original assessment order by way of a separate appeal. Under the law, the assessee cannot be permitted to assail an order indirectly which is not the subject matter of the present appeal. Accordingly, Grounds Nos. 1 to 6 of the assessee's appeal are rejected.

7. Now, coming to Grounds Nos. 7 & 8, pertaining to the addition on account of unsecured loans and disallowance of expenses, the Ld. Counsel for the assessee contended that the orders of the lower authorities are based purely on conjectures and surmises. He drew my attention to the assessment order and submitted that the additions in respect of unsecured loans were made solely on the ground of alleged absence of supporting evidences. In this regard, he drew my attention to the paper book at pages 131 to 155, wherein the assessee has placed on record the loan confirmations along with the relevant bank details. He further submitted that the orders of the lower authorities are unjustified.

8. On the other hand, the Ld. Departmental Representative for the Revenue supported the orders of the lower authorities.

9. Heard the Ld. Representatives of the parties and perused the materials available on records. It is seen that the assessee has filed confirmations of the unsecured loans along with the relevant bank details. The Revenue has not brought on record any material to controvert the evidences so furnished. Therefore, the addition of Rs.14,08,400/- is unjustified. The assessee has duly discharged the primary onus cast upon him with regard to the identity, genuineness, and creditworthiness of the creditors. Thus, the impugned addition made and sustained by the authorities below cannot be sustained. I, therefore, hereby direct

the AO to delete the impugned addition. The ground no. 7 of the appeal is allowed.

10. Coming to the disallowance of Rs.1,16,417/- on account of commission income, the Assessing Officer has pointed out a discrepancy in the disclosure of profit and cash from business. As per the Assessing Officer, there is a difference of Rs.1,16,417/. It is noted by the AO that assessee had earned higher commission income than disclosed in the profit and loss account. The assessee was required to re-concile the difference but no material is placed on record explaining the difference. No submission is made in this regard. Even before this Tribunal, the assessee has failed to reconcile the said difference. Therefore, in the absence of any satisfactory explanation or reconciliation, the findings of the lower authorities are justified. The ground no. 8 of the assessee's appeal is dismissed.

11. Ground no. 9 is general in nature and requires no separate adjudication.

12. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 08/01/2026.

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

DATED: 08/01/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File

By order  
Sr. Private Secretary

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