

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

ITA No.3270/Del/2023
Assessment Year: 2011-12

Manish Pahwa,
J-554, Rajouri Garden,
New Delhi– 110 027.

Vs ITO,
Ward-45(2),
Delhi.

PAN: AAAPP0676M

(Appellant)

(Respondent)

Assessee by : Shri Nitin Gulati, Advocate
Revenue by : Ms Ankush Kalra, Sr. DR
Date of Hearing : 16.10.2025
Date of Pronouncement : 09.01.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 20.09.2023 of the Commissioner of Income-tax (Appeals), NFAC, Delhi (hereinafter referred to as the Id. First Appellate Authority or 'the Ld. FAA' for short) in Appeal No.CIT(A), Delhi-15/10234/2018-19 arising out of the appeal before it against the order dated 26.12.2018 passed u/s 147 r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ITO, Ward-45(2), Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the records. The background to the present appeal of assessee is that assessee's case was reopened u/s 147 of the Act on the basis of information that assessee had made transaction with M/s Global IT International amounting to Rs.15,00,000/- during the period under consideration for AY: 2011-12 and further of ITD enquiry it was noticed that assessee had filed ITR for AY: 2011-12 on 29.09.2011 declaring total income of Rs.15,45,372/- after deduction under Chapter VI amounting to Rs.1,00,000/-. During the assessment an addition of Rs.15,00,000/- was made on account of transaction with Gopal IT International to be found as bogus expenditure. Further addition of Rs.7,50,000/- was made on account of cash deposits in the bank statement. Further an addition of Rs.26,50,000/- was made on account of unexplained investment in the property as reflected in the balance sheet and Rs.24,15,000/- were added on account of cost of improvement in the property being not explained in terms of source of the transaction. The same stand sustained by Id. CIT(A) of which the assessee is in appeal before this Tribunal and after hearing the contentions of both sides and statements filed on behalf of the assessee ground wise findings is as follows.

3. **Ground 1:** Addition of Rs.26.50 lakh as Unexplained Investment in Property under Section 69 of the Act. The AO observed that the assessee purchased a property or made an addition to property for Rs.26.50 lakh during AY 2011-12 without satisfactorily explaining the source of investment. The

assessee had submitted the purchase deed and claimed the payment was made from his bank account, but no supporting fund trail was provided. The AO treated Rs.26.50 lakh as unexplained investment under Section 69 of the Act. The CIT(A) upheld the addition, noting that apart from the sale deed, no bank statement or evidence of source was furnished thus the investment remained unexplained and the onus to prove explained sources was not discharged.

3.1 Assessee's Rebuttal is that entire Rs.26.50 lakh investment was financed through explained sources, specifically the assessee's bank overdraft (OD) account. The paper book is filed to show that the OD account statements and bank records evidence the fund flow. According to AR, the bank disbursed funds (as a loan/OD withdrawal) which were used to pay for the property. These OD entries (PB Pg. 9) show that the source of Rs.26.50 lakh was a bank loan, not any unaccounted income. Thus, the payment did come from the assessee's disclosed bank account contrary to the AO's inference and the CIT(A)'s remark that no bank statement was furnished is misplaced, as the relevant statements were in fact submitted but appear not to have been considered. In summary, the investment was duly recorded and funded via legitimate banking channels, leaving no unexplained component.

3.2 Now what is relevant is that Section 69 can be invoked only if an investment is not recorded in books and the assessee fails to explain its source. Here, the investment was recorded in assets and the source is a bank/OD loan

but same needs to be examined to show if OD facility funds ultimately landed with investment in property only and the fund flow by way of credit and debit to bank indicated OD being invested in property. Thus the matter deserves to be restored to the files of Id. AO to make appropriate enquiry in the issue by giving assessee an opportunity of reconciling the OD facility availed with the impugned investment in property. **Ground is allowed for statistical purposes.**

4. **Ground 2:** Addition of Rs.24.15 lakh as Unexplained Improvement Expenditure made under Section 69C of the Act. During assessment, Rs.24.15 lakh claimed as cost of improvement of a property which was sold by the assessee was disallowed and treated as unexplained expenditure under Section 69C of the Act. The assessee had furnished a copy of the invoice from M/s Unity Builders for renovation (flooring, furnishing, interiors, etc.) of the flat, asserting that this was a genuine expense. However, the AO noted that the bank statement did not reflect any payment to M/s Unity Builders, and the source of funds for this expenditure was not clarified. The CIT(A) confirmed the addition, observing that merely providing the contractor's bill was insufficient and no proof of actual payment or source of the Rs.24.15 lakh was produced, so the assessee failed to discharge the onus of explaining the funding of the improvement. The entire Rs.24.15 lakh was thus added as unexplained expenditure.

4.1 Ld. AR asserts that the improvement expenditure was in fact incurred and funded through accounted sources. The assessee's books contain bank withdrawal entries correlating to this Rs.24.15 lakh outlay. Specifically, the assessee withdrew substantial FDRS from his bank/OD account which were used to pay M/s Unity Builders in cheque. These withdrawals correspond closely to the dates and amounts of the improvement work stages, establishing a clear money trail. Thus, while the payment to Unity Builders may not appear as a single direct transfer in the bank statement since it was paid in installments, the underlying source of funds was the assessee's disclosed bank account. Additionally, the improvement cost was duly recorded in the assessee's financial statements and was part of the cost basis of the property sold as reported in the capital gains computation. There is no unexplained or unaccounted element as the funds came from the assessee's normal banking resources and were applied towards genuine property enhancement.

4.2 Secondly, as per ld. AR, the assessee has produced an authentic invoice and explanation of payments. The onus shifts to the Revenue to prove that the expense was fictitious or funded by undisclosed income. Here, there is no evidence that the Rs.24.15 lakh came back to the assessee or was unexplained no cash hoard or suppressed income was detected to finance it. It was submitted that where payments are made through banking channels or properly withdrawn from known accounts, courts have been reluctant to label the expenditure as

“unexplained.” It was contended that the department has not shown any evidence that the Rs.24.15 lakh was not genuinely expended on the property or was routed back to the assessee, aside from the fact that the contractor’s name appeared only on an invoice. That alone cannot justify a 69C addition when we have shown a plausible source and bona fide transaction.

4.3 Assessee’s evidences in paper book not show any bank statement of M/s Unity Builders. Rather if we go through the submission dated 11/09/2023, copy of which is made available at page 5 and 6 of PB we find that before Id. CIT(A) assessee had claimed that the work was on credit with assurance to pay out of sale consideration. The ledger of Unity builders at page 23 also does not show any banking transaction to debit the payments. We are of considered view that matter deserves to be restored to the files of Id. AO to make appropriate enquiry of the issue by giving assessee an opportunity of reconciling the payments as claimed to be made by banking channel. **Ground is allowed for statistical purposes.**

5. **Ground 3:** Disallowance of Rs.7.50 lakh for Website Services paid to Gopal I.T. International alleged to be bogus expenditure under Section 69C of the Act. The assessee had claimed Rs.7.50 lakh as an expenditure for website development/hosting services, paid to M/s Gopal I.T. International by cheque and invoice. The AO, however, treated this as a bogus expenditure on the premise that Gopal I.T. International was found by the Investigation Wing to be

an accommodation-entry provider. The AO noted that Mr. Gopal Kumar, proprietor, did not file an ROI for AY 2011-12 and could not be found at his address and that the assessee failed to demonstrate that he actually had a functional website or that Gopal I.T. had the capability to deliver such services, and that no TDS was deducted on the payment. Based on these factors, the AO disallowed the Rs.7.50 lakh and added it under Section 69C as unexplained/bogus outflow. The CIT(A) upheld the addition, concurring that the genuineness of the payment was not established and citing the above investigative findings treating the transaction as an accommodation entry.

5.1 Ld. AR has submitted that the disallowance is based on suspicion and third-party information, not on any cogent evidence that the assessee's transaction was bogus. On the contrary, the assessee has furnished: (a) a tax invoice from M/s Gopal I.T. International for the web services, (b) proof of payment by account-payee cheque dated (PB Pg.9), clearing from the assessee's bank on correspondence/service deliverables indicating that a website was indeed developed for the assessee's business (PB Pg., e.g. website content drafts, domain registration details). The necessity of a website for our overseas education consultancy business was explained to the authorities this was a genuine business need and the service was availed. The fact that Gopal I.T.'s proprietor later became non-compliant with tax filings or is reported as an "entry operator" does not nullify the genuine contract that took place. At the

time of transaction, there was no adverse information about the vendor. The payment was made through banking channels and duly accounted for; there is no evidence whatsoever that this amount was returned to the assessee in cash or that the assessee colluded in any sham. Notably, the AO did not identify any benefit or cash flow back to the assessee no bank withdrawals or unexplained assets corresponding to Rs 7.50 lakh were found. All he relied on was the general report about the vendor's activities. It was also submitted that the assessee was never afforded an opportunity to cross-examine Shri Gopal Kumar or any person who gave information against this party. If the department believed Mr. Gopal Kumar provided only accommodation entries, the assessee should have been allowed to question this allegation. Denial of such opportunity is a violation of natural justice, but the assessee was never confronted with those persons or findings beyond a general show-cause. This alone makes the addition vulnerable.

5.2 We have taken into consideration the findings of Id. AO in **para 7 to 10** of assessment order and reproduce the same below for giving conclusive findings;

“7. M/s Gopal IT International and M/s Gopal International are the Proprietorship concerns of Shri Gopal Kumar. From the bank statement of Gopal IT International, A/c No. 01852090002593, it is seen that account was opened on 28.04.2009 and during the year 2010-11, the account is frequently credited by the way of fund transfer/RTGS/Cheque Deposits and the debits of almost similar amount are mostly by way of self drawn cheques within a day or two, of the credits. The account is

dormant since 20.08.2010. Similar pattern is observed in the bank account of Gopal International, A/c No.02082090000119. From the account opening form of these accounts it is seen that M/s Gopal IT International is into the business of Trading of Computer Hardware and software and M/s Gopal International is into the business of Electronic Goods & Computer Accessories. The details of credit entries appearing in the bank accounts of Shri Gopal Kumar during the F.Y. 2010-11 is as below.

S.No.	Name of the Account Holder	Account No. Bank & Branch	Total Credits including Cash Deposits
1	Gopal kumar	01740120030406 Kotak Mahindra Bank, Punjabi Bagh	NIL
2	Gopal International IT Proprietorship Concern of Shri Gopal Kumar	01852090002593 Kotak Mahindra Bank, Model Town	18,30,940/-
3	Gopal International Proprietorship Concern of Shri Gopal Kumar	02082090000119 Kotak Mahindra Bank, Pitam Pura	16,35,115/-
4	Gopal Kumar	003083800000179 Yes Bank, Rajouri Garden, HP	NIL
5	Shri Siddhi Sales Corporation (proprietorship Concern of Shri Gopal Kumar)	1631414 RBS, Gurgaon	11,54,000/-
		Total	46,20,055/-

8. *As per the details available on the ITBA System, Shri Gopal Kumar has not filed his Income Tax Return for the A.Y. 2011-12. Summons were issued to the subject at the available addresses given in bank accounts but the same were returned by the postal authorities with remarks "Left" and "No such firm on the address'. Further, field enquiries were conducted by the Inspector at all the available addresses and the Inspector has submitted in his report that neither such person was found at the available addresses nor such concerns existed there.*

9. A perusal of A/c No. 01852090002593 of Shri Gopal Kumar Prop: M/s Gopal IT International reveals that there are credits of Rs. 18,30,940/- in the account for F.Y. 2010-11 and bank was asked to furnish the details of debit and credit transactions appearing in the account. The following beneficiaries have been identified to whom the transactions have been made.

Beneficiary Name	PAN	Debit Amount	Credit amount
Manish Pahwa	AAAPP0676M	7,50,000/-	7,50,000/-
CCS Computers Pvt. Ltd.	AAACC4246K		10,80,940/-

10. It is further observed that 10,50,000/- has been withdrawn in cash from the account immediately after receiving the credits.

Shri Manish Pahwa

A summons was issued to Shri Manish Pahwa for explaining the transactions with Shri Gopal Kumar. A reply (Copy Enclosed) has been received from M/s Vineet Garg & Co. stating that Shri Manish Pahwa is in the business of Educational Consultancy and he has paid Rs. 7,50,000/- to M/s Gopal IT International on 26.04.2010 for development of Software. It is pertinent to mention here that no documentary evidence has been furnished by Shri Manish Pahwa in support of his claim. It is also observed that Shri Manish Pahwas has received Rs 7,50,000/- from Gopal International on 07.04.2010 which he has not mentioned in his reply. **Thus, the transaction of Rs. 15,00,000/- as mentioned above remained.”**

5.3 It not a case of mere suspicion but the ld. AO has brought on record reasonable inferences from the nature of bank account activity of Shri Gopal

and his concerns. The nature of his business activity also do not justify potential to give services of hosting a website. Assesse also has not led evidence as to what was the process of getting a website developed as development of website and maintenance of same can be conveniently be shown by several accessibility checks in real time but assessee seems to have failed to show the same at any stage. Thus mere payment and invoice are not evidence of an expenditure which creates an intangible asset unless its existence is proved by some out put and user. Same is not the case here, so the addition is not based on suspicion but a reasonable belief, which need not be disturbed. **The ground deserves to be rejected.**

6. **Ground 4:** Addition of Rs.7.50 lakh as Unexplained Cash Deposit made under section 68/69 of the Act. The assessee deposited Rs.7.50 lakh in cash on 08.06.2010 into his bank account. The AO treated this sum as unexplained cash credit, income from undisclosed sources under Section 68 or as unexplained money under Section 69A on the ground that the assessee did not satisfactorily explain the source. The assessee contended that this cash came out of his regular business receipts including an opening cash balance and small cash advances from clients during the year - i.e. it was accumulated business cash, not untaxed income. The AO, however, found the explanation unsubstantiated by documents and added the entire Rs.7.50 lakh. The CIT(A) agreed, stating that merely claiming the cash was generated from business (opening cash and client

advances) is not enough; the assessee failed to back it with documentary evidence (such as cash book, client receipts, etc.). Therefore, the addition was upheld for want of proof of source.

7.1 Ld. AR submits that the cash deposit was indeed explained and the necessary evidence is in the paper book bank withdrawals demonstrating the source of this Rs.7.50 lakh. In summary, as of 1st April 2010, the assessee had an opening cash-in-hand and throughout Q1 of FY 2010-11, the assessee's business of education consultancy generated regular cash receipts. Notably, just few days prior to 08.06.2010, the assessee had received in cash from various clients. The cumulative cash on hand by 08.06.2010 was more than sufficient to account for the Rs.7.50 lakh deposited into the bank. In fact, the deposit was simply a transfer of cash from the cash box (booked in accounts) into the bank account-essentially, a deployment of already accounted cash. The books do not reflect any "mystery" credit; they show a cash drawdown moving into a bank credit. Thus, the source was internal accruals of the business which were already part of the disclosed income stream. No part of this Rs.7.50 lakh represents unreported income. To reinforce this, assessee claims that the assessee's accounts were maintained, and there was no suppression of turnover. The profit from these cash fees has been duly offered to tax. Adding the same cash as unexplained would amount to double taxation of the business income. The Revenue did not point out any specific deficiency in the cash book (e.g., no

instance of cash in hand turning negative or unexplained cash generation beyond recorded sales). Therefore, the inference of unexplained income is unsustainable.

7.2 We have given thoughtful consideration to contention of assessee and what immediately strikes us is that the nature of business in terms of its capacity to churn out cash is of vital significance to see if the cash generated from business was only deposited in bank. However, mere assertion was made and no details services rendered to individuals have been brought on record at any stage. Bald assertion of cash sales being reflected in cash book is not sufficient and some plausible explanation about nature of sales, services, customer's details etc. needed to be brought on record, which assessee has failed to do, so the conclusion drawn by the Id. Tax authorities need no interference. **The ground is rejected.**

8. Resultantly the **appeal is partly allowed** with consequences to follow as per determination of grounds as above.

Order pronounced in the open court on 09.01.2026

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 09.01.2026
Rohit, Sr. PS

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi