

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES 'C': NEW DELHI.**

**BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER  
and  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.693/Del/2025  
(Assessment Year : 2022-23)**

ACIT, Circle 34 (1),  
Delhi.

vs.

Vishakha Builders LLP,  
302, GDITL, Northex Tower,  
Netaji Subhash Place, Pitampura,  
Maurya Enclave, Rani Bagh,  
Delhi – 110 034.

**(PAN : AATFV9065F)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Ms. Kavita Jha, Sr. Advocate  
Ms. Aabgina Chishti, Advocate  
Shri Himanshu Aggarwal, Advocate  
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 04.11.2025

Date of Order : 14.01.2026

**ORDER**

**PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :**

1. The revenue has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [“Ld. CIT(A)”, for short] dated 04.12.2024 for the Assessment Year 2022-23.
2. Brief facts of the case are, assessee filed its return of income declaring total income of Rs.17,52,270/-. The case of the assessee was selected

through CASS. During assessment proceedings, the AO observed that assessee has claimed large deduction under Chapter VI-A in ITR and the reasons for selection under CASS was also to verify the above said deductions. Accordingly, notices under section 143(2) and 142(1) of the Income-tax Act, 1961 (for short 'the Act') were issued and served on the assessee. In response, assessee submitted that it has made contribution of Rs.3.25 crores to a political party claimed deduction u/s 80GGB of the Act in their return for the relevant assessment year. Further it was submitted that it was engaged in the real estate business and main source of income was derived from sale of properties as well as renting out of properties. In support of the same, assessee has submitted details of the properties sold by it during the year along with sale deed of the properties and bank statements. It has also filed the donations receipts made to the political parties. After considering the submissions of the assessee, the AO rejected the submission of the assessee and he gave following reasons to make addition u/s 69A of the Act :-

### **3.2.3 Variation proposed on the basis of inference drawn:-**

Upon examining the submission and documents provided by the assessee, following observations have been made:-

Firstly, the assessee has submitted the copies of donation receipts issued by the political party, of making contribution of Rs.3,25,00,000/- during the period concerned which contains the details of the assessee and is downloaded from public domain;

Secondly, the assessee failed to provide the relevant bank account statement of the bank account of the assessee from which the amount of Rs. 3,25,00,000/- was debited in the account of the political party during the period concerned, alongwith the complete narration;

Thirdly, to explain the source of the fund of Rs. 3,25,00,000/- for making contribution to political party, the assessee submitted that it is engaged in the real estate business of sale/ purchase of properties and main source of income is derived from the sale of properties and renting the properties. The assessee submitted the copies of documents of sale transactions of properties, details of which is tabulated as under :-

S.No.	Description of property	Owner of property	Nature of Document	Consideration involved
1	Property no. 209, Block- B, sec-08, Dwarka, Delhi	Vishakal Builder LLP, the assessee	Sale deed	2,20,00,000/-
2	Property no 676, Pooth Kalan, Vill. Pooth Kalan, Delhi	-do-	Agreement to Sale	3,55,000/-
3	Property no. 148, Block- A, Sector-08, Dwarka, Delhi	-do-	Agreement to Sale	1,83,91,000/-

However, the assessee failed to provide the bank account statement reflecting the bank entries/ narration of the above transactions. The assessee failed to provide the books of accounts of its entity to prove the existence of its business of sale of properties and genuineness of the operations of the business. The assessee also failed to prove that these assets which are shown to be sold by the assessee (as in the above table), was a part of stock in trade of the business, as its income is treated as Income from Business and Profession. The assessee moreover, had provided the agreement to sale and failed to provide the sale deed of the properties mentioned at S No. 2 & 3 in the above table, which raises a doubt that consideration amount has been fully realized and is shown as income in ITR without execution of the Sale Deed. As the Title Deed is not executed by the assessee, it is not correct to show its Income in ITR during that period.

Fourthly, on perusal of the ITR of the assessee during the year under consideration, it was noticed that the assessee is showing Gross Total Income of Rs.3,42,52,271/- (out of which 3.38 crores is under Income from B&P) and after availing deduction of Rs.3.25 crores u/s 80GGB of the Act, the total income of the assessee is shown as Rs.17,52,271/-. These statistics shows that 95% of the Gross Income shown by the assessee during the year under consideration, is donated to a political party as contribution during the year concerned, which is hard to believe and is not general in practice. For a business of income ranged from 10-20 lakhs, contributing such a huge fund of around 17 times of the Total income of the assessee, is against the principles

of Accounting. Hence, AO has a Strong Reason To Believe, that this practice of the assessee is exceptional and is sourced from unexplained money.

Thereafter the assessee was show caused as to why the variations proposed as the above discussion, shall not be considered final in the case. The relevant extracts of the Show Cause Notice is reproduced as below:-

### 2.3 Variation proposed on the basis of inference drawn:-

Upon examining the submission and documents provided by the assessee, following observations have been made:-

Firstly, the assessee has submitted the copies of donation receipts issued by the political party, of making contribution of Rs. 3,25,00,000/- during the period concerned which contains the details of the assessee and is downloaded from public domain;

Secondly, the assessee failed to provide the relevant bank account statement of the bank account of the assessee from which the amount of Rs. 3,25,00,000/- was debited in the account of the political party during the period concerned, alongwith the complete narration;

Thirdly, to explain the source of the fund of Rs.3,25,00,000/- for making contribution to political party, the assessee submitted that it is engaged in the real estate business of sale/ purchase of properties and main source of income is derived from the sale of properties and renting the properties. The assessee submitted the copies of documents of sale transactions of properties, details of which is tabulated as under:-

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1	Property no. 209, Block- B, sec-08,	Vishakal Builder LLP, the	Sale deed	2,20,00,000/-	31.12.202
2	Property no 676, Pooth Kalan, VIII. Pooth Kalan,	-do-	Agreement to Sale	3,55,000/-	16.03.202
3	Property no. 148, Block- A, Sector- 08, Dwarka, Delhi	-do-	Agreement to Sale	1,83,91,000/-	10.07.202

However, the assessee failed to provide the bank account statement reflecting the bank entries/ narration of the above transactions. The assessee failed to provide the books of accounts of its entity to prove the existence of its business of sale of properties and genuineness of the operations of the business. The assessee also failed to prove that these assets which are shown to be sold by the assessee (as in the above table), was a part of stock in trade of the business, as its income is treated as Income from Business and Profession. The assessee moreover, had provided the agreement to sale and failed to provide the sale deed of the properties mentioned at S No. 2 & 3 in the above table, which raises a doubt that consideration amount has been fully realized and is shown as income in ITR without execution of the Sale Deed. As the Title Deed is not executed by the assessee, it is not correct to show its Income in ITR during that period.

Fourthly, on perusal of the ITR of the assessee during the year under consideration, it was noticed that the assessee is showing Gross Total Income of Rs. 3,42,52,271/- (out of which 3.38 crores is under Income from B&P) and after availing deduction of Rs. 3.25 crores u/s 80GGB of the Act, the total income of the assessee is shown as Rs. 17,52,271/-. These statistics shows that 95% of the Gross Income shown by the assessee during the year under consideration, is donated to a political party as contribution during the year concerned, which is hard to believe and is not general in practice. For a business of income ranged from 10-20 lakhs, contributing such a huge fund of around 17 times of the Total income of the assessee, is against the principles of Accounting. Hence, AO has a Strong Reason To Believe, that this practice of the assessee is exceptional and is sourced from unexplained money.

In the view of above points, it is inferred that source of the fund of Rs. 3,25,00,000/- used for making contribution to a political party during the year under consideration, remains unexplained and hence, it is proposed to treat the amount of Rs. 3,25,00,000/- as unexplained money of the assessee u/s 69A of the Act.

Proposed Addition u/s 69A of the Act- Rs. 3,25,00,000/-”

3. Aggrieved assessee preferred an appeal before the Id. CIT (A) and filed detailed submissions which were submitted before AO. After considering the detailed submissions of the assessee, Id. CIT (A) deleted the addition with the following observations :-

“6.5 The Assessing Officer has made the impugned addition of Rs.3,25,00,000/- u/s 69A of the Act. In Para 3.6 of the assessment order, it has been stated as under:

*“...The source of the amount of Rs. 3,25,00,000/-, used for making payment, which is claimed as deduction u/s 80GGB, as contribution to a political party during the year under consideration, is not explained by the assessee and hence, the same is treated as unexplained money u/s 69A of the Act and is added back in the income of the assessee u/s 69A r.w.s 115BBE of the Act.”*

6.6 The *sine quibus non* for invoking legal fiction created by Section 69A of the Act are:

1. the assessee should be *“found to be the owner of any money, bullion, jewellery or other valuable article”*;
2. the said money, bullion, jewellery or other valuable article *“is not recorded in the books of account, if any, maintained by him for any source of income”*; and
3. *“the assessee offers no explanation about the nature and source of acquisition ”* of the said money, bullion, jewellery or other valuable article, or *“the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory”*.

6.7 With regard to conditions (a) and (c) laid down in Para 6.6 above, it is an undisputed fact that the bank account (bearing A/c No. 0120002100086963 maintained with Punjab National Bank, Gurudwara Road, Karol Bagh Branch) through which the funds utilized towards making the donations were routed belongs to the appellant. Also, the explanation furnished by the appellant with regard to the source of such funds was held be not satisfactory by the Assessing Officer (which has been challenged by the appellant through the grounds of appeal).

6.8 With regard to condition (b), however, the following facts are apparent from the record:

1. Sales of properties which were part of appellant’s stock-in-trade are recorded in Note 7 (Inventories) and Note 10 (Revenues) of the appellant’s audited financial statement for the financial year 2021-22 as reproduced below:

Note 7: Inventories	As at 31 March	As at 31 March
Property at 148 Dwarka, New Delhi (Date of Purchase: 12.06.2007)	-	544,600
Property No. 229, Sector-8, Dwarka (Date of Purchase: 15.04.2019)	2,802,000	2,802,000

Property No. 9, Block-A, Dwarka (Date of Purchase: 21.01.2010)	4,666,000	4,666,000
Property No. 209, Block-B, Sector-8 (Date of Purchase: 14.06.2010)	-	5,300,000
Property No. 676, PoothKalan (Date of Purchase: 24.12.2012)	-	352,500
Property No. 117, 118 and 119 NSP, Delhi (Date of Purchase: 19.08.2021)	9,096,124	-
Note 10: Revenue from Operations	For the period ended 31 March 2022	For the period ended 31 March 2021
Sale of Property held as Stock in Trade	40,746,000	-
Total	40,746,000	-

2. The contributions amounting to Rs.3,25,00,000/- made to a political party are shown in the Profit & Loss A/c for the year as "Donation" under the head "Other Expenses" as per Note 16 of the audited annual financial statement:

Note 16: Other Expenses	For the period ended 31 March 2022	For the period ended 31 March 2021
Audit Fees	7,500	7,500
Bank Charges	1,228	-
Commission Expense	537,820	-
Conveyance	6,812	718
Donation	32,500,000	-
General Expenses	8,870	2,370
House Tax	5,882	-
Formation Expense	-	10,157
Legal and Professional	2,000	7,500
Printing and Stationary	1,620	816
ROC Filing Fee	400	-

Staff Welfare	4,410	-
Telephone Expenses	1,860	1,236
Total	33,078,402	30,927

3. The appellant's bank account in which the sale proceeds amounting to Rs.4,07,46,000/- were credited and from which the contributions amounting to Rs.3,25,00,000/- were made to a political party is disclosed in the Balance Sheet as on 31/03/2022 under the head "Cash and Cash Equivalents" (Note 8 of the audited annual financial statement).

6.9 There is no finding of fact that the relevant transactions claimed by the appellant to constitute sources of funds utilized towards making contributions to a political party have not been recorded in the appellant's books of accounts. The Assessing Officer has also not brought anything on record regarding the existence of any undisclosed source of income to which the contributions amounting to Rs.3,25,00,000/- made to a political party during the year under consideration can be ascribed. On the contrary, as elaborated in Para 6.8 above, the transactions in question are found to be categorically recorded in the books of accounts.

6.10 In view of the above discussions, assessment of the appellant's total income made by the Assessing Officer by invoking the provisions of Section 69A of the Act when the relevant transactions pertaining to source and application of funds used for making donations eligible for deduction u/s 80GGC of the Act have been recorded in the books of accounts are regularly maintained by the assessee is bad in law and is liable to be quashed."

4. Further Id. CIT (A) has addressed various inferences drawn by the AO in his assessment order at paras 6.11 to 6.19.

5. Aggrieved Revenue is in appeal before us raising following grounds of appeal :-

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.3,25,00,000/- made on account of unexplained money under the provisions of section 69A read with section 115BBE of the Act.

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the above-mentioned addition of Rs.3,25,00,000/-

inspite of the fact that the AO has made addition considering that Ninety Five percent of the. gross income of the assessee is donated to a political party and the assessee could not explain the source of making payment which is claimed as deduction u/s 80GGB being contribution to a political party.”

6. At the time of hearing, ld. DR of the Revenue filed following documents:-

- i. ITR and Computation of income for the relevant year
- ii. Extracts of Audit Report and Final Accounts
- iii. Copy of PNB account no. 86963
- iv. Receipts of donation given to BJP
- v. AO's mail 21.07.2025
- vi. Assessee's submission dt. 16.6.2023 before AO
- vii. Working of property transaction viz-a-viz bank account

And submitted that in support of the Grounds of appeal taken in the subject appeal by the Revenue, the above documents are further relied upon in addition to the order of the Assessment Order for kind consideration of the Bench. It is further submitted that upon considering the submissions of the assessee and perusing the bank account statement filed by the assessee during the course of assessment proceedings it was apparent that the assessee had failed to reconcile the source of donations. Further, the assessee failed to reconcile the source of donations as discussed in para 6.12 to 6.15 of the impugned order of CIT(A) with reference to its sale proceeds of property. A working of property transactions as reflected in bank account statement are also furnished herewith ready reference.

7. On the other hand, ld. AR of the assessee submitted as under :-

“The return of income was filed on 25.07.2022 after claiming a deduction of Rs.3.25 cr. on account of section 80GGC ‘Deduction in respect of contribution given by companies to political parties.’

The case of the Respondent was selected for scrutiny on the solitary ground that claim made under Chapter VIA needs verification.

The following documents were submitted by the assessee in the course of assessment/CIT(A) proceedings.

Date	Document	Reference Page of P.B.														
31.03.2021	<p>Properties as part of ‘Inventories’ : ‘Note 7 Inventories’ of Audited Financial Statement</p> <p>i. Property at 148, Dwarka, New Delhi (Date of purchase – 12.06.2007).</p> <p>ii. Property at 209, Block-B, Sector-8, New Delhi (Date of purchase 14.06.2010).</p> <p>iii. Property at 676, Pooth Kalan (Date of purchase – 24.12.2012)</p>	@ page 9 Note 7 Inventories														
08.07.2021	<p><u>Property sold as a part of Inventory:</u> Property at 148, Dwarka, New Delhi ( Date of purchase – 12.06.2007) for Rs.1,83,91,000/-</p> <p>i. Sale deed of property</p> <p>ii. Bank statement reflecting the sale consideration</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Amount (Rs.)</th> </tr> </thead> <tbody> <tr> <td>23.07.2021</td> <td>50,00,000/-</td> </tr> <tr> <td>12.07.2021</td> <td>50,00,000/-</td> </tr> <tr> <td>09.07.2021</td> <td>10,00,000/-</td> </tr> <tr> <td>21.06.2021</td> <td>5,00,000/-</td> </tr> <tr> <td>07.04.2021</td> <td>21,928/-</td> </tr> <tr> <td>Total</td> <td>1,15,21,928/-</td> </tr> </tbody> </table> <p>iii. Ledger account of ‘PNB A/C 86963 BOOK’ for the period 01.04.2021 to 31.03.2022.</p>	Date	Amount (Rs.)	23.07.2021	50,00,000/-	12.07.2021	50,00,000/-	09.07.2021	10,00,000/-	21.06.2021	5,00,000/-	07.04.2021	21,928/-	Total	1,15,21,928/-	<p>@ Page 49-52</p> <p>@ Pg 28</p> <p>@ page 21</p>
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<p>31.12.2021</p> <p>209, Block-B, Sector-8, New Delhi (Date of purchase-14.06.2010) for Rs.2,17,86,816</p> <p>i. Sale deed of property</p> <p>ii. Bank statement reflecting the sale consideration</p> <table border="1" data-bbox="630 556 1047 913"> <thead> <tr> <th>Date</th> <th>Amount (Rs.)</th> </tr> </thead> <tbody> <tr> <td>01.01.2022</td> <td>42,80,000/-</td> </tr> <tr> <td>28.12.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>16.11.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>16.11.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>27.10.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>27.10.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>30.09.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>31.08.2021</td> <td>25,00,000/-</td> </tr> <tr> <td>Total</td> <td>217,80,000/-</td> </tr> </tbody> </table> <p>iii. Ledger account of 'PNB A/C 86963 BOOK' for the period 01.04.2021 to 31.03.2022</p> <p>16.03.2022</p> <p>Property at 676, Pooth Kalan (Date of purchase-24.12.2012) for Rs.3,55,000/- Sale Deed</p> <p>i. Sale deed of property</p> <p>ii. Bank statement reflecting the sale consideration</p> <table border="1" data-bbox="630 1396 1047 1470"> <thead> <tr> <th>Date</th> <th>Amount (Rs.)</th> </tr> </thead> <tbody> <tr> <td>12.01.2022</td> <td>3,55,000/-</td> </tr> </tbody> </table> <p>iii. Ledger Account of 'PNB A/C 86963 BOOK' for the period 01.04.2021 to 31.03.2022</p>	Date	Amount (Rs.)	01.01.2022	42,80,000/-	28.12.2021	25,00,000/-	16.11.2021	25,00,000/-	16.11.2021	25,00,000/-	27.10.2021	25,00,000/-	27.10.2021	25,00,000/-	30.09.2021	25,00,000/-	31.08.2021	25,00,000/-	Total	217,80,000/-	Date	Amount (Rs.)	12.01.2022	3,55,000/-	<p>@ page 39-45</p> <p>@ page 26-28</p> <p>@ page 22-23</p> <p>@ page 46-48 &amp; 53</p> <p>@ page 26</p> <p>@ page 23</p>
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<p>31.03.2022</p>	<p><u>Revenue recognised :</u></p> <p><u>'Note 10 Sale of Property held as stock in trade' of Audited financial Statements.</u></p> <p><u>Donation :</u></p>	<p>@ page 10</p>																							

Date	Amount (Rs.)	
02.11.2021	1,74,95,000/-	
02.11.2021	5,000/-	
02.11.2021	25,00,000/-	
02.03.2022	5,00,000/-	
02.03.2022	1,20,00,000/-	
Total	3,25,00,000/-	
i. Receipts of donation ii. Bank statement iii. Ledger Account of 'PNB A/C 86963 book' for the period 01.04.2021 to 31.03.2022 iv. 'Note 16 Other Expenses' of Audited Financial Statement		@ page 29-33 @ page 25-27 @ page 22-24 @ page 10

From the above, there remains no doubt to the fact that the entire transaction, i.e., from realizing of consideration received from sale of immovable property till the donation made, was recorded in the books of account and was channeled through banking channels. Hence, in view thereof provisions of section 69A cannot be invoked.

It is settled law that the very provisions of section 69A of the Act cannot be invoked, if:

- (a) the transaction stood recorded in the books of accounts, and
- (b) transaction is substantiated with corroborative evidence, which has not been disputed by the AO.

In view of the above it would be appreciated that none of the conditions precedent for invocation of provisions of section 69A have been met. Accordingly, the Ld. CIT(A) has correctly appreciated / interpreted the provisions of section 69A and have returned the definitive finding of fact that the transaction is were carried out through regular banking channels and were duly recorded & substantiated.

Reliance is placed on the following decisions, where in it has been held that the provisions of section 69A can only be invoked where any assets is 'not recorded in the books of account'

- i. CIT vs. Smt. Sadhana Jain [2014] 45 taxmann.com 432 (Allahabad)
- ii. Yogesh Gupta vs. ACIT [2024] 159 taxmann.com 1396 (Delhi - Trib.)
- iii. Smt. Teena Bethala vs. ITO ITA os.1383 and 13 84/Bang/2019

Further, the bare perusal of provisions of section 80GGC of the Act provides for deduction of any amount paid as contribution to the political party, irrespective of any threshold or any other stipulation. Further there is no

mandate as regards that what, could be the possible source of such contribution.

It is respective-fully submitted that it is a trite law that the revenue is not permitted to sit in the armchair of the businessman and in any way dictate any terms of business.

- i. CIT vs. Dalmia Cement (E.) Ltd. (2002) 254 ITR 377
- ii. S.A. Builders Ltd. vs. CIT, [2007] I SCC 781

In view of the above submissions made, it is hereby prayed that the order of Ld. CIT(A) be upheld and the appeal of the Revenue be dismissed.”

8. Considered the rival submissions and material placed on record. We observed that assessee is dealing in real estate and recorded the sale transactions in their books of account and also made huge donation to a political party, assessee duly maintained books of account and also declared all the above said transactions in their books of account. We observed that the AO has invoked the provisions of section 69A of the Act even though assessee has recorded all the transactions in their books of account and also declared the same in the return of income filed by them. Therefore, there is no scope for the AO to invoke the provisions of section 69A of the Act. Therefore, we are inclined to agree with the detailed findings of the ld. CIT (A).
9. In the result, the appeal filed by the revenue is dismissed.

**Order pronounced in the open court on this 14<sup>th</sup> day of January, 2025.**

**Sd/-  
(VIMAL KUMAR)  
JUDICIAL MEMBER**

**Sd/-  
(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Dated: 14.01.2026/TS**

Copy forwarded to:

1. Appellant
2. Assessee
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI