

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

ITA No.175/Ind/2025  
(AY: 2009-10)

Neha Tamrakar, 177 A sector, Indrapuri Bhopal(M.P.) <b>(PAN: AJTPT6475G)</b>	<b><u>बनाम/</u></b> Vs.	ITO -5(1), Bhopal.
(Appellant)		(Respondent)
Assessee by	Shri Soumya Bumb, CA	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	12.01.2026	
Date of Pronouncement	16.01.2026	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[ herein after referred to as the Act for the sake of brevity] before this tribunal as & by way of a second Appeal. The Assessee is aggrieved by the order bearingNumber:-ITBA/NFAC/S/250/2023-24/1057144832(1) dated 17.10.2023 passed by the Ld. CIT(A) u/s 250 of the Act, which is herein after referred to as the "**Impugned order**". The Relevant Assessment year is 2009-10 and the

corresponding previous year period is from 01.04.2008 to 31.03.2009.

2.

**Factual Matrix**

2.1 That as and by way of an Assessment order made **u/s 147 rws 144/144B of the Act**, the total income of the Assessee was computed & assessed at **Rs. 22,04,600/-**. The total income as per the return of the income was at **Rs.1,02,100/-**. The addition of **Rs.22,04,600/-** was made as unexplained deposit. The aforesaid Assessment order is dated 21.12.2016 [PAN No. AJTPT 6475G] of ITO-5(1) Bhopal MP which is herein after referred to as the **"Impugned Assessment Order"**

2.2 In the aforesaid **"Impugned Assessment Order"** it is recorded that "As per AIR information generated through the system of this office it was found that during the F.Y.2008-09 relevant to the A.Y.2009-10 the assessee has deposited in cash of Rs. 22,04,600/- in a Saving Bank Account. However as per available record the assessee has filed the return for the AY 2009-10 and declaring income of Rs. 1,02,100/-.

Hence, after recording reason u/s 148(2) of the Income Tax Act, 1961 (hereinafter referred as 'Act') and getting approval on 26.02.2016 from the competent authority u/s 151 of the 'Act' notice u/s 148 of the 'Act' dated 03.03.2016 was issued. Due to change of incumbent notice u/s 142(1) of the 'Act' dated 01.08.2016, 09.09.2016, 05.10.2016, 17.11.2016 requiring the assessee to furnish the queries raised wherein by 10.08.2016, 23.09.2016, 19.10.2016, 28.11.2016. Due to change of incumbent notice U/s. 129 alongwith last opportunity issued on 01.12.2016 and 16.12.2016 and fixing the hearing on 07.12.2016 and 19.12.2016 and served on 16.12.2016. On the given date neither anyone attended nor any written reply was filed. Even no adjournment was sought till date by the assessee to make future compliance. In the absence of proper documentary evidence why shall not deposit in cash of Rs. 22,04,600/- in a Saving Bank Account as assesses unexplained income. As on the given date neither assessee was appeared nor any written reply was filed till date. As the assessment proceedings are not *ad infinitum* and is being barred by limitation on 31/12/2016,

hence it is futile to wait endlessly for assessee looking to the persistent non-compliance made by him having left no option in hand I am resorting to the section 144 of the 'Act' and assessment is made on best of my judgement."

2.3 Further in the aforesaid **"Impugned Assessment Order"** it is also recorded that "on perusal of the AIR information it was found that the assessee has made cash deposits of Rs. 22,04,600/-. In absence of proper documentary evidence and looking to the fact that the assessee has not filed any return not only within the prescribed time-limit mentioned u/s 139 but also in compliance of the notice issued u/s 148 of the 'Act' hence cash deposit of Rs. 22,04,600/- is treated as unexplained income of the assessee for the F.Y. 2008-09 relevant to the A.Y. 2009-10."

2.4 That the assessee being aggrieved by the aforesaid the **"Impugned Assessment Order"** prefers the first appeal u/s 246 A of the Act before the Ld. CIT(A) who by the **"Impugned Order"** has dismissed the first appeal of the assessee on the

grounds & reasons stated therein. The core grounds & reasons for the dismissal of the first appeal are as under:-

*"In the original grounds of appeal, the assessee has challenged the validity of the reassessment proceedings on the ground that the notice u/s. 148 was issued only on 16.12.2016 and hence, the same is barred by limitation and accordingly, the assessment order is invalid and bad in law. However, perusal of the assessment order shows that sufficient opportunities were provided by the AO before finalizing the assessment as per his best judgment.*

*6.1 The relevant extract of the assessment order is reproduced hereunder :-"..... Hence, after recording reason u/s. 148(2) of the Income Tax Act, 1961 and getting approval on 26.02.2016 from the competent authority u/s. 151 of the Act notice u/s. 148 of the Act dated 03.03.2016 was issued. Due to change of incumbent notice u/s. 142(1) of the Act dated 01.08.2016, 09.09.2016, 05.10.2016, 17.11.2016 requiring the assessee to furnish the queries raised wherein by 10.08.2016, 23.09.2016, 19.10.2016, 28.11.2016. Due to change of incumbent notice u/s. 129 alongwith last opportunity issued on 01.12.2016 and 16.12.2016 and fixing the hearing on 07.12.2016 and 19.12.2016 and served on 16.12.2016. On the given date neither any one attended nor any written reply was filed. Even no adjournment was sought till date by the assessee to make future compliance. In the absence of proper documentary evidence why shall not deposit in cash of Rs. 22,04,600/- in a Savings Bank Account as assessee's unexplained income. As on the given date neither assessee appeared nor any written reply was filed till date. As the assessment proceedings are not ad infinitum and is being barred by limitation on 31.12.2016, hence it is futile to wait endlessly for the assessee looking to the persistent non-compliance made by him having left no option in hand I am resorting to the section 144 of the Act and assessment is made on best of my judgement.*

*6.2 To verify the assessee's contention regarding no notice u/s 148 being issued within time, this office vide letter dated 01.09.2023 requested the AO to provide the proof of service of notice issued u/s. 148 of the Act. The AO vide letter dated 21.09.2023 has stated that the notice u/s. 148 was issued to the assessee on 03.03.2016 through speed post bearing no. E1734581034IN and has also uploaded the copy of the notice u/s. 148 of the I.T. Act issued on 03.03.2016. The copy thus uploaded by the AO is scanned and placed below for easy reference:*

6.3 It may be noted that the address mentioned in the notice u/s 148 dated 03.03.2016 is similar to the address at which the assessment order along with the notice u/s 156 of the Act is issued. Hence, it can be fairly concluded that all the notices issued by the AO were issued at the same address i.e H No. A-177, Sector-A, Indrapuri, Bhopal. Hence, there is no plausible reason to accept that though the assessee was able to receive notice dated 16.12.2016, the earlier notices issued on the same address would not have been served on her. In view of the above factual position the grounds number 1 and 2 raised by the assessee questioning the validity of the assessment order on account of non service of the statutory notices within the stipulated time limit, are hereby dismissed.

7. The additional ground relates to the addition of Rs. 22,04,600/- made by the AO by treating it as unexplained income of the assessee.

7.1 The present case was reopened on the basis of AIR information generated through the system by issue of notice u/s. 148 dated 03.03.2016. Despite issuing various notices requiring the assessee to file various details/documentary evidences, the assessee neither attended nor any written reply was filed. Even no adjournment was sought by the assessee for future compliance. Accordingly, the AO added Rs. 22,04,600/- as unexplained income of the assessee, by observing as under:

"On perusal of the AIR information it was found that the assessee has made cash deposits of Rs. 22,04,600/-, In absence of proper documentary evidence and looking to the fact that the assessee has not filed any return not only within the prescribed time limit mentioned u/s. 139 but also in compliance of the notice issued u/s. 148 of the Act hence cash deposit of Rs. 22,04,600/- is treated as unexplained income of the assessee for the F.Y. 2008-09 relevant to A.Y. 2009-10.....

7.2 The only submission made by the assessee during the appellate proceedings on the above issue is by way of 'statement of facts', which is already reproduced in the earlier part of the order. As per the assessee, she is engaged in purchase and sale of copper and brass scrap, and the cash deposits in the bank accounts reflects the deposits made out of sale receipts of Rs. 15,00,000/- and deposits made out of excess withdrawals of cash. The assessee also placed reliance on the Mumbai ITAT's decision in the case of ACIT vs. Ramlal Jewellers Pvt. Ltd., wherein as submitted by the assessee it was held that, cash sales accepted and then deposit of said cash in bank account cannot be treated

*as deposits made out of any undisclosed income. Accordingly, addition u/s 68 is unsustainable.*

*It is also pertinent to mention here that though the assessee, against column 12 of Form 35, has mentioned that additional evidences are filed under Rule 46A, which includes the copy of bank statements and sale bills, the only document filed by the assessee is the copy of registration of Shop Establishment dated 22/06/2016.*

*7.3 Vide notice dated issued u/s 250 of the Act the assessee was specifically asked to submit her response on additional evidences as under:*

*10. In case any additional evidences are produced or proposed to be produced during the appellate proceedings, the exceptional circumstances as enumerated in Rule 46A of the Income Tax Rules, 1962 under which your case falls should be specified along with necessary documents to support the existence of the exceptional circumstances so specified.*

*In response the assessee merely submitted that that "The Order is Passed U/s 144 and the Assessee Failed To produce Necessary Evidence."*

*7.4 Thus, the assessee has made no efforts to substantiate the true nature of sources of cash deposited by her in the bank account. The assessee claims to be in the business of trading of copper and brass scrap and has filed her ROI on presumptive basis u/s 44AD of the Act on a turnover of Rs. 15 lacs. But in the absence of any supporting documents to substantiate the nature of business activities allegedly carried out by her, no benefit of even the sum of Rs.15 lacs claimed to be deposits reflecting her business turnover can be given to her. Thus the reliance placed by the assessee on the Mumbai ITAT's decision in the case of ACIT vs. Ramlal Jewellers Pvt. Ltd. does not support the assessee's case as in her case the cash sales itself are doubtful.*

*7.5 In view of the above observations, the addition of Rs. 22,04,600/- made by the AO as unexplained deposits is hereby confirmed. Thus, additional ground raised by the assessee is Dismissed.*

*8. To conclude, the present appeal is DISMISSED."*

2.5 The assessee being aggrieved by the **"Impugned Order"** has preferred the instant second appeal before this Tribunal

& has raised following grounds of the appeal in the From No.

36 against the **"Impugned Order"** which are as under:-

*"1. On the facts and circumstances of the case and in law the learned CIT(A) erred in not providing adequate consideration for appellant submission. The Appellant prays that the EXPARTE order of CIT(A) passed without giving proper consideration be directed to be quashed and set aside.*

*2. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals) ("CIT(A)") erred in exparte dismissing the appeal of the Assessee and thereby confirming the addition made by the Assessing Officer. The Appellant prays that the said order be set aside to the CIT(A) for hearing on merits.*

*3. On the facts and circumstances of the case and in law the CIT(A) erred in conforming the addition of Rs. 22,04,600/- under Section 69 of the Act. The Appellant prays the said addition be directed to be deleted.*

*4. The Appellant craves leave to add to, alter and/or amend all or any of the foregoing grounds of appeal."*

3. **Record of Hearing**

3.1 The hearing in the matter took place on 12.01.2026 when the Ld. AR for & on behalf of the assessee appeared before us & interalia contended that the **"Impugned Order"** is bad in law illegal & not proper. It is in the violation of the principles of natural justice. It therefore deserves to be set aside. It was next contended that the registry has pointed out the delay of **409 days** in filling the instant second appeal. It was submitted that in this regard a condonation of delay

application is made together with an affidavit dated **10.01.2026**. It was submitted that impugned order is dated **17.01.2023** & that the same was not received by the assessee at that point of time. It was encountered by her when she logged on to the portal on **26.12.2024**. It was also submitted by the Ld. AR that e-mail id is not on the record. In form No.35 general e-mail id is mentioned. The said e-mail id [itrdsc@gmail.com](mailto:itrdsc@gmail.com) as is recorded in form NO. 35 do not belong to the assessee. The same is not in the access of the assessee. No physical copy of the impugned order was received by the assessee. It was submitted that the **"Impugned Order"** was passed after seven years. The delay was bonafide. There is no malafide intention of the assessee. Sufficient cause is shown & hence the delay be condoned. Per contra the Ld. DR for the revenue submitted that the department has no objection if the delay is condoned by this Tribunal. After carefully going through the condonation of delay application & affidavit in support we are of the considered view that the delay is not deliberate & there is no malafide intention of the assessee. Assessee has shown

sufficient cause. Accordingly we condone the delay & admit the appeal.

3.2 The Ld. AR for the assessee then contended that the **“Impugned Assessment Order”** is exparte. Non compliances have happened. The jurisdiction of the Ld. AO was changed on more than two occasions. Multiple notice(s) in the assessment proceedings came to be issued. In so far as the impugned order was concerned it was pleaded that the same is too exparte. The statement of fact as per the form No. 35 was relied upon. It was also submitted that the notice u/s 148 was beyond time of 6 years. Para 6.2 of the Ld. CIT(A) order was referred & it was stated that the Ld. AO response was not provided for. The page 3 of the **“Impugned Order”** was read out too(para6, 6.1). It was finally prayed by the Ld. AR that the **“Impugned Order”** be set aside & the matter be remanded back to the file of the Ld. AO on denovo basis. Per contra the Ld. DR appearing for the Revenue contended that “revenue has no objection if the **“Impugned Order”** is set aside & the matter is remanded back to the file of the Ld. AO subject to cost. In rejoinder the Ld. AR submitted that the

assessee is small business woman & minimum cost should be imposed on her.

4. **Observations, findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the contentions of the Ld. AR & Ld. DR canvassed before us are of the considered opinion that the **"Impugned Assessment Order"** is under section 144 of the Act & the matter has not been adjudicated & adjudged basis merits of the case. Even the **"Impugned Order"** is not on merits for more than one reason i.e. no. additional evidence filed please see para 7.3 of the impugned order.

**"Impugned Assessment Order"** was under 144 of the Act no documents filed to sustainable turnover of 15 lakhs u/s 44AD & so on & so forth.

This Tribunal desires meritorious disposal of the “**Impugned Assessment Order**” & so also of the “**Impugned Order**”. The assessee cooperation in this regard assumes importance. The Assessee cannot go in **slumber mode**. In our considered view & opinion the Impugned order should be set aside & is accordingly set aside back to the file of the Ld. AO for passing a fresh order on merits of the case. It is the expectation of this Tribunal that the assessee would give her full & complete details including latest e-mail id of her & counsel to the Department where notices could be served effectively by the department. The assessee to attend hearings as & when fixed & file reply & details as sought by the Ld. AO, be provided for.

4.4 In the premises drawn up by us, we set aside the “**Impugned Order**” & remand the case back to the file of the Ld. AO on denovo basis subject to payment of cost of Rs. 2500/- by assessee to the department by filling a challan In category “**others**”. The assessee is directed not take any credit of taxes, penalty, interest etc. against such payment of

cost. The Ld. AO is directed to pass a speaking & well-reasoned order.

5. Order

5.1 In the result, the “**Impugned Order**” is set aside as & by way of remand back to the file of Ld. AO with directions as aforesaid.

5.2 Consequently appeal is allowed for statistical purpose.

**pronounced in open court on 16.01.2026**

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

**Indore**

Dated : 16/01/2026  
Patel/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore