

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI

BEFORE SHRI YOGESH KUMAR US, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 3756/DEL/2025 [A.Y 2018-19]

Atul Agarwal
393, A-1, Devpuri, Bhatipura
Meerut, Uttar Pradesh

Vs. The I.T.O
Ward - 1(1)
Meerut

PAN: AEWPA 0627 H

(Applicant)

(Respondent)

Assessee By : Shri Animesh Vashisth, Adv

Department By : Shri Sumer Singh Meena, CIT- DR

Date of Hearing : 11.12.2025

Date of Pronouncement : 16.01.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the NFAC, Delhi dated 26.09.2024 pertaining to A.Y 2018-19.

2. The grievances of the assessee read as under:

"1. The Learned Assessing officer has erred as the assessment was made u/s 153A which can only be originated from the books of

accounts or statements seized but the learned AO claimed to rely upon information from investigation. However loose papers or a statement of accountant relied upon are no way be treated as evidence. It is only after such handing over to the AO then only AO can issue a notice as per provision of 153A and before a notice under section 153C, two steps are required to be done. Here the assessment made u/s 148 which is bad in law and require quashing of the order.

2. The AO has relied on the explanation of the assessee is not satisfactory and the amount of Rs. 1,60,11,223/- in cash as accommodation entry treating the unexplained income of the assessee. This is totally against the facts and law because the loose papers cannot be said seized material relates to the Atul Agarwal and the assessee is having accommodation entries with Alok Kumar Agarwal without any concrete secondary evidence. Therefore, addition made on the basis of third party statement which is occurred by a loose paper not provided to the assessee is arbitrary, unjust and not according to law. He relied upon the information only and even the statement has not been recorded before him.

3. The A.O has erred in making an addition of hypothetical income to the income of assessee and ignored the vital CBDT circulars that such admissions or confessions, as the case may be made during the course of search or survey does not carry evidentiary value since it has to be only to the evidence collected only. However in this case there is no evidence except accountant's version of assessee involvement that too not provided to the assessee.

4. The Assessing officer erred in not following the instructions of the CBDT Circular No -5 F.No -286/98/2013-IT(Inv- II) dt 18-12-2014 & F.No -286/2/2003 - IT(Inv). The CBDT Circular very clearly in the cases relating to disclosure of undisclosed income by the assessee in reference to survey proceedings and recording of statements. Hence the addition made is not legally correct and be quashed.

5. That according to the A.O. the assessee maintained following bank accounts.

(1). Syndicate Bank-A/c No. 87922010021630

(2). ICICI Bank Account No. 696401438100

(3). PNB-Account No. 2159000100158699

(4). PNB-Account No.-3698000100155765

And there is no reflection of cash of any kind in such accounts. Hence, he has not justified in making huge addition of Rs. 1,60,11,223/- he also failed to call bank account directly from the banks as all the details were available to the A.O. Moreover, the alleged transaction is no way showing in any of the assessee bank account. Hence be quashed.

6. That the assessee reserves its right to add, delete or modify any grounds of appeal during the proceedings."

3. There is a delay in filing the appeal. Having perused the condonation petition and the affidavit, we find that the reason for delay in filing the appeals is the death of the counsel of the assessee and his ill health. Hence the assessee has sufficient cause for not filing the

appeal in time. Accordingly, we condone the delay and admit the appeal.

4. Brief facts of the case are that the assessee is an individual and had filed his return of income for the year under consideration showing gross turnover of Rs 15,76,500/- by declaring income of Rs. 4,72,950/- u/s 44AD of the Income-tax Act, 1961 [the Act, for short] @ 8%. On the basis of information received from Investigation wing that during search and seizure operation in the case of Alankrit group, evidence was recovered that assessee had received unaccounted cash of Rs 1,60,11,223/- and made accommodation entry from shell entity controlled by Alok Kumar Agarwal, his case was reopened u/s 148 after taking prior permission from competent authority. In response to the notice, the assessee has not filed the return of income. The Assessing Officer completed the assessment u/s 147 r.w.s. 144B of the Act by assessing the total Income Rs. 1,63,59,143/- thereby raising the tax demand of Rs. 2,00,42,641/-.

6. Aggrieved, the assessee went in appeal before the ld. CIT(A) who upheld the assessment order. Now the further aggrieved assessee is in appeal before us.

7. Upon hearing the rival submissions and perusing the materials available on record, we find that the assessee has not filed any

submissions before the CIT(A) preventing the CIT(A) to adjudicate the issues at hand. We are further of the opinion that the CIT(A) has not examined the entire conspectus of the case properly and has not followed the provisions of section 250(6) of the Act. In view of the same we are of the considered opinion that in the interest of justice and balance of convenience, the issue should be set aside to the file of the ld. CIT(A) for examining the issues and evidences afresh. We therefore, direct the ld. CIT(A) to give a reasonable opportunity to the assessee and examine and adjudicate on the impugned issues afresh. The assessee is also directed to furnish all documents/evidence as and when required by the ld. CIT(A) for examination. Needless to add that in the event the assessee fails to avail the three effective opportunities provided, the CIT(A) would be free to take adverse view, if any. In view of the same, the appeal of the assessee is allowed for statistical purposes.

8. In the result, appeal of the assessee in ITA No. 3756/DEL/2025 is allowed for statistical purposes.

The order is pronounced in the open court on 16.01.2026.

Sd/-
[YOGESH KUMAR U.S.]
JUDICIAL MEMBER

Sd/-
[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 16th JANUARY, 2026.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	