

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.580/Ind/2025
(Assessment Year: 2016-17)

Jayganga Exim India Pvt. Ltd., 852, Sudama Nagar, In Front of Jain Mandir, Indore-452009	Vs.	DCIT, Central Circle-2, Bhopal
PAN No. AAACJ8822E		
(Appellant)	..	(Respondent)

I.T.A. No.555/Ind/2025
(Assessment Year: 2017-18)

Jayganga Exim India Pvt. Ltd., 852, Sudama Nagar, In Front of Jain Mandir, Indore-452009	Vs.	DCIT, Central Circle-2, Bhopal
PAN No. AAACJ8822E		
(Appellant)	..	(Respondent)

I.T.A. Nos.561 to 564/Ind/2025
(Assessment Years: 2013-14 to 2016-17)

Zyka Merchandise Pvt. Ltd., 852, Sudama Nagar, In Front of Jain Mandir, Indore-452009	Vs.	DCIT, Central Circle-2, Bhopal
PAN No. AAACZ3842Q		
(Appellant)	..	(Respondent)

Appellant by :	Shri Harsh Vijaywargiya, C.A.
Respondent by:	Shri Anup Singh, CIT-DR

Date of Hearing	23.12.2025
Date of Pronouncement	19.01.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JM:

These bunch of appeals have been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-3, Bhopal vide orders dated 22.11.2024 & 25.11.2024 passed for A.Ys. 2013-14 to 2017-18.

Application for condonation of delay

2. Before us, the assessee has filed application for condonation of delay in these cases requesting that the the delay of 88 days (in ITA No.555/Ind/2025), 96 days (in ITA No.580/Ind/2025) and 89 days (in ITA Nos. 561 to 564/Ind/2025) may kindly be condoned. The reason cited for delay in filing of appeal is the Accountant, who was looking into the matter, left the job without intimation and, therefore, the assessee had no knowledge with regard to passing of the order by the Ld. CIT(A). It was submitted that the delay was non-intentional and for reasons beyond the control of the assessee.

3. Looking into the reasons cited by the assessee and the period of delay and the substantial quantum of additions made in the hands of the assessee, the delay is hereby condoned in the interest of justice with respect to the impugned cases listed before us.

On merits:

ITA No. 580/Ind/2025 (A.Y. 2016-17)

4. The Assessee has raised the following grounds of appeal:

“1. That having regard to the facts and circumstances of the case, Ld. AO has erred in law and on facts in making and Ld. CIT (A) in confirming addition of Rs. 37,74,25,800 u/s. 69 of the Income Tax Act, 1961 as unexplained investment by alleging that other investments shown in the financial statements by the assessee company during the year remains unexplained, by recording incorrect facts and findings and without observing the principles of natural justice.

2. That having regard to the facts and circumstances of the case, Ld. AO has erred in law and on facts in making and Ld. CIT (A) in confirming addition of Rs.

10,05,00,000 u/s. 69 of the Income Tax Act, 1961 as unexplained investment by alleging that loans and advances given and shown in the financial statements by the assessee company during the year remains unexplained, by recording incorrect facts and findings and without observing the principles of natural justice.

3. That on the facts and in the circumstances of the case Ld. AO has erred in passing and Ld. CIT (A)-3, Bhopal has erred in confirming the impugned order without affording any opportunity of being heard against the principles of natural justice.

4. That the impugned assessment and appellate order so passed is illegal and wrong.

5. That the appellant craves leave to add, amend, alter or delete all or any of the grounds of appeal and all the above grounds are mutually exclusive to each other.”

5. The brief facts of the case are that the assessee, Jayganga Exim India Pvt. Ltd., filed its return of income for A.Y. 2016–17 declaring nil income. Subsequently, the case was reopened under section 147 of the Income-tax Act, 1961 (“the Act”). Despite service of notice under section 147 of the Act, the assessee did not file any return of income nor did it respond to the subsequent notices issued by the Assessing Officer. Thereafter, the Assessing Officer issued notice under section 142(1) of the Act dated 08.10.2021 asking the assessee to file its return and furnish details, but there was again no compliance on part of the assessee. The Assessing Officer thereafter issued show cause notices under section 144 of the Act on 15.12.2021 and again on 04.01.2022 granting final opportunity to the assessee to explain the issues arising from the balance sheet and other information available on record. However, the assessee failed to respond even to these notices. In view of persistent non-compliance, the Assessing Officer proceeded to complete the assessment under section 147 read with section 144 of the Act on 25.03.2022.

6. During the assessment proceedings, on perusal of the balance sheet, the Assessing Officer noticed that the assessee had shown investment/share application money pending allotment amounting to ₹37,74,25,800/- during

the year. The assessee was asked to explain the nature and source of this investment with supporting documentary evidence. However, since no explanation or evidence was furnished by the assessee, the Assessing Officer treated the said amount as unexplained investment and added the same to the total income of the assessee under section 69 of the Act. Further, the Assessing Officer also noticed that during the year the assessee had advanced loans and advances aggregating to ₹10,05,00,000/-. The assessee was again required to explain the source of such loans and advances with documentary evidence, but no compliance was made. Consequently, the Assessing Officer treated the said amount also as unexplained investment under section 69 of the Act and added it to the total income. As a result, the total income of the assessee was assessed at ₹47,79,25,800/- as against nil income returned, and interest under sections 234A, 234B, 234C and 234D of the Act was also charged.

7. Aggrieved by the assessment order, the assessee filed an appeal before the learned Commissioner of Income-tax (Appeals). With respect to Grounds relating to the addition of ₹37,74,25,800/- on account of unexplained investment/share application money pending allotment, the learned CIT(A) noted that despite issuance of several notices both at the assessment stage and during appellate proceedings, the assessee had not furnished any explanation or documentary evidence in support of its claim. The learned CIT(A) observed that merely alleging that the addition was based on incorrect facts or was against the principles of natural justice was not sufficient unless supported by cogent material. The learned CIT(A) further examined the reasons recorded for reopening of assessment and noted that the assessee was found to be part of a group of companies linked with Shri Sharad Darak, who

had admitted to providing accommodation entries through shell entities by routing unaccounted cash in the form of share capital, share premium and unsecured loans. The learned CIT(A) also noted **that the assessee exhibited several characteristics of a shell company, such as nominal equity, absence of real business activity, and substantial investments and loans without any substantive commercial rationale.** In the absence of any cooperation or evidence from the assessee, and considering the background of accommodation entry operations, the learned CIT(A) held that the Assessing Officer was justified in treating the amount of ₹37,74,25,800/- as unexplained investment under section 69 of the Act. Accordingly, Ground Nos. 2 and 3 were dismissed.

8. In Ground Nos. 4 and 5, the assessee challenged the addition of ₹10,05,00,000/- made under section 69 of the Act on account of unexplained loans and advances. The learned CIT(A) observed that the assessee had again failed to furnish any explanation or evidence either before the Assessing Officer or during appellate proceedings to substantiate the source of these loans and advances. The learned CIT(A) reiterated that the conduct of the assessee showed complete non-cooperation and an evasive approach, and that the surrounding circumstances clearly indicated that the loans and advances were part of accommodation entry activities rather than genuine business transactions. Applying the same reasoning as adopted for unexplained investments, the learned CIT(A) confirmed the addition of ₹10,05,00,000/- made by the Assessing Officer under section 69 of the Act and dismissed Ground Nos. 4 and 5.

9. Accordingly, the learned CIT(A) dismissed the appeal of the assessee and confirmed the additions made by the Assessing Officer under section 69 of the Act.

10. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

11. Before us, the ld. counsel for the assessee submitted that that the reason for non-compliance at assessment proceedings stage was that the assessment proceedings were initiated during the Covid-19 period and therefore, the assessee did not get an effective opportunity of hearing to present its case on merits before the Assessing Officer. Further, the ld. counsel for the assessee submitted that that CIT(Appeals) had issued notices of hearing at an incorrect e-mail id and therefore, the assessee did not get an opportunity to cause appearance before CIT(Appeals) to present the case on merits. Further, the ld. counsel for the assessee submitted before us that the assessee has a good case on merits and would be able to produce supporting evidences if given an opportunity of hearing, which may also be granted considering the quantum of additions made in the hands of the assessee.

12. In response, Ld. DR placed reliance on the observations made by CIT(Appeals) in the appellate order. However, in the interests of justice, Ld. DR did not object to the matter being restored to file of the Assessing Officer for adjudication on merits considering the fact that assessment order was passed during Covid-19 period and also looking into the quantum of additions made.

13. We have heard the rival contentions and perused the material available on record. It is an undisputed fact that the assessment in the present case was completed ex parte under section 147 read with section 144 of the Act, 1961, during the Covid-19 period, on account of non-compliance by the assessee. It is also evident from the record that the learned CIT(A) confirmed the additions primarily on the ground that the assessee did not avail the opportunities provided either at the assessment stage or during the appellate proceedings and failed to place any material on record to rebut the findings of the Assessing Officer. Before us, the assessee has explained the reasons for such non-compliance by submitting that the proceedings were carried out during the Covid-19 pandemic and further that the notices of hearing before the learned CIT(A) were issued at an incorrect e-mail address, resulting in denial of an effective opportunity of being heard. The assessee has also categorically stated that it has a good case on merits and is in a position to substantiate the source of the investments and loans and advances, if a proper opportunity is granted. The principles of natural justice require that no person should be condemned unheard and that a fair and reasonable opportunity must be afforded before drawing adverse conclusions, particularly when substantial additions are involved. The Hon'ble Supreme Court in ***Tin Box Company v. CIT (2001) 249 ITR 216 (SC)*** has held that where the assessment is framed without granting proper opportunity to the assessee, the matter deserves to be restored for fresh adjudication. Similarly, the Hon'ble Supreme Court in ***Andaman Timber Industries v. CCE (2015) 62 taxmann.com 3 (SC)*** has emphasized that denial of reasonable opportunity of hearing vitiates the proceedings.

14. We also note that Hon'ble Indore ITAT in the assessee's own case i.e. Jayganga Exim India Pvt. Ltd. V. ACIT ITA No. 211/Ind/2025 for Assessment Year: 2018-19 vide order dated 30.10.2025 has restored the matter to the file of the Assessing Officer for de-novo consideration. The operative part of the order is reproduced for ready reference:

“That the hearing in the matter took place before this Tribunal on 23.10.2025 when the Ld. AR for and on behalf of the assessee appeared before us and inter alia contended that the “Impugned Order” is illegal, bad in law, and not proper. It thus deserves to be set aside by this Tribunal in exercise of its Appellate Jurisdiction. The Ld. AR has placed on record of this Tribunal a compilation from pages 1 to 28. Basis Impugned Assessment order passed u/s 144 of the Act it was contended that notice u/s 142(1) was dated 16.03.2020 & the assessee was asked to comply with it by 15.04.2020, the assessee could not comply as Covid-19 had already started by that date. Once again a notice u/s 129 was issued to assessee on 18.11.2020 which too assessee could not comply due to Covid-19. Even notice u/s 271(1)(d) dated 29.12.2020 could not be complied with due to Covid-19. The show cause notice u/s 144 was dated 02.04.2021 seeking compliance by 07.04.2021 too remained unattended due to Covid-19. In brief it was contended that due to Covid-19 there was non compliance & Impugned Assessment Order of Ld. AO is ex-parte & the Ld. CIT(A) ought to have set aside the same. Per contra Ld. DR contended that the period which is being discussed & debated is of covid-19 period & it was not possible for anyone during Covid-19 period to comply with any notice(s) issued by the Income Tax Department. In brief the Ld. DR for the revenue has concurred with the submission made by the Ld. AR of the assessee on issue of the Covid-19.

4. Observations & findings & conclusions

4.1 We have to decide the legality, validity and propriety of the “impugned order” basis records of the case and the contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case and after hearing and upon examining the contentions are of the considered view that period of compliance as discussed & debated (supra) falls within Covid-19 with nationwide lock down declared 25.03.2020.

4.4 In view of the aforesaid we hold that Ld. CIT(A) ought not have confirmed the “Impugned assessment Order”.

4.5 In view of the aforesaid we set aside the Impugned Order & remand the case back to the file of Ld. AO.

5. Order

5.1 In the premises Impugned Order is set aside as & by way of remand back to the file of Ld. AO on denovo basis.

5.2 In view of the aforesaid the appeal of the assessee is allowed for statistical purposes.”

15. Considering the totality of facts and circumstances, including the peculiar situation prevailing during the Covid-19 period, the explanation furnished by the assessee regarding non-receipt of effective opportunity, the substantial quantum of additions made under section 69 of the Act and also the above decision in the assessee own case for assessment year 2018-19, we are of the considered view that the issues involved require fresh examination at the level of the Assessing Officer. Accordingly, we set aside the impugned order of the learned CIT(A) as well as the assessment order on the issues relating to the additions of ₹37,74,25,800/- and ₹10,05,00,000/- made under section 69 of the Act and restore the matter to the file of the Assessing Officer for de novo adjudication on merits.

16. The Assessing Officer is directed to afford adequate and effective opportunity of being heard to the assessee and to examine the issues afresh in accordance with law after considering all evidences and explanations that may be furnished by the assessee. The assessee is also directed to cooperate fully and file all relevant details and evidences as may be called for by the Assessing Officer. We clarify that we have not expressed any opinion on the merits of the additions and all issues are left open.

17. In the result, the appeal of the assessee is allowed for statistical purposes.

ITA No.555/Ind/2025 – A.Y. 2017-18

18. The assessee has raised the following grounds of appeal:

“1. That having regard to the facts and circumstances of the case, Ld. AO has erred in law and on facts in making and Ld. CIT (A) in confirming addition of Rs. 22,10,24,650 u/s. 68 of the Income Tax Act, 1961 as unexplained cash credit by alleging that share application money received by the assessee company during the year remains unexplained, by recording incorrect facts and findings and without observing the principles of natural justice.

2. That on the facts and in the circumstances of the case Ld. AO has erred in passing and Ld. CIT (A)3, Bhopal has erred in confirming the impugned order without affording any opportunity of being heard against the principles of natural justice.

3. That the impugned assessment and appellate order so passed is illegal and wrong.

4. That the appellant craves leave to add, amend, alter or delete all or any of the grounds of appeal and all the above grounds are mutually exclusive to each other.”

19. We further observe that the facts and issues for consideration for **AY 2017-18 in ITA Number 555/Ind/2025** are similar to ITA No.580/Ind/2025 for A.Y. 2016-17. Accordingly, the appeal of the assessee is restored to the file of the Assessing Officer for fresh consideration and therefore allowed for statistical purposes for AY 2017-18.

ITA 561 to 564/Ind/2025 (Zyka Mechandise Pvt. Ltd.)

20. We further observe that the facts and issues for consideration are similar all the years under consideration before us. The facts are broadly similar to ITA No.588/Ind/2025 as discussed above. In all cases, the ld. counsel for the assessee has submitted that the assessee did not get effective opportunity of hearing since the assessment proceedings were completed during Covid-19 period and accordingly, looking into the quantum of additions made by the Assessing Officer, a fresh opportunity of hearing may be granted in the interests of justice to allow the assessee to produce supporting documents. It would be useful to reproduce the relevant extracts of ITAT Indore ruling in assessee’s own case for A.Y. 2017-18 in ITA

No.46/Ind/2025 (order dated 12.09.2025) wherein in similar act of facts, the matter was restored to the file of Assessing Officer for de novo consideration.

“We also note that Hon'ble Indore ITAT in the assessee's own case i.e. Zyka Merchandise Pvt. Ltd. v. ACIT in ITA No.46/Ind/2025 for Assessment Year: 2017-18 vide order dated 12.09.2025 has restored the matter to the file of the Assessing Officer for de-novo consideration. The operative part of the order is reproduced for ready reference:

The captioned two (2) appeals have been filed by assessee challenging two (2) separate orders of first-appeal dated 25.10.2024 & 06.12.2024 passed by learned Commissioner of Income-Tax (Appeals)-3, Bhopal [“CIT(A)”], which in turn arise out of respective assessment-orders dated 26.03.2022 & 08.07.2021 passed by learned DCIT-Central Circle (2), Bhopal [“AO”] u/s 147/144 of Income-tax Act, 1961 [“the Act”] for Assessment-Year [“AY”] 2017-18 & 2018-19, on the grounds as mentioned in Appeal Memos (Form No. 36).

2. Ld. AR for assessee at first carries us to the orders of lower-authorities and demonstrates that the AO as well as CIT(A) have passed the orders of assessment as well as orders of first-appeals ex-parte to assessee for non-representation. Thereafter, the Ld. AR carries us to Para 4 of assessment-orders to further demonstrate that the all notices were issued by AO during Covid-19 pandemic period; hence the assessee was unable to comply with those notices. Thereafter, Ld. AR carries us to the Form No. 35 filed by assessee to CIT(A) and submits that the email id: ziyampl@hotmail.com mentioned therein for sending communications to assessee was an email id which had been automatically taken by system while filing first-appeal. However, the said e-mail id of 'hotmail' mailing service was very old and not in operation and the assessee could not receive notices of hearings fixed by CIT(A); hence the assessee was unable to participate in hearings of first-appeal. On merit of case, Ld. AR again carries us to assessment-order and submits that the AO has made hefty additions for lack of evidences and one amongst those additions is the addition on account of “Loans & Advances” given by assessee which were duly recorded in books of assessee and appearing in Balance-Sheet. According to Ld. AR, this addition on account of “Loans & Advances” is patently bad, illegal and could not have been made. Ld. AR thus submits that considering the facts of assessee's case, the present matters are fit for restoring back to the file of AO for proper adjudication afresh. Ld. AR acknowledges that the assessee is ready and willing to make a proper representation before AO if an opportunity is given.

3. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to direct the assessee to represent its case before AO and do not seek unnecessary adjournments.

4. Considering above submissions of parties; having regard to the principle of natural justice and also bearing in mind that no prejudice would be caused to revenue if the present matters are restored at the level of AO, we remand these matters back to the

file of AO for adjudication afresh, at the risk and responsibility of assessee. The AO shall give necessary opportunity of hearing to assessee and pass appropriate orders uninfluenced by his earlier orders. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate orders in accordance with law. Ordered accordingly.

5. Resultantly, these appeals are allowed for statistical purpose.

21. Accordingly, even for these years before us, we set aside the matter to the file of the Assessing Officer for de-novo consideration on merits. We clarify that we have not expressed any opinion on the merits of the additions and all issues are left open to be decided on merits based on evidences produced before the Assessing Officer.

22. In the result, all the appeals of the assessee before us are allowed for statistical purposes.

This order pronounced as per Rule 34(4) of ITAT Rules, 1963 on 19/01/2026

Sd/-

**(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER**

Indore; Dated 19.01.2026
Tanmay, Sr. PS

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

True Copy

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT(A)
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

**(Dy./Asstt. Registrar/Sr. P.S./DDO)
ITAT, Indore**