

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE-PRESIDENT
&
SMT. RENU JAUHRI, HON'BLE ACCOUNTANT MEMBER**

ITA No. 6280/DEL/2025; Assessment Year: 2018-19

Shri Yashpal Grover B-222 New Subzi Mandi Azadpur Delhi- 110033	Vs	ITO Ward 36(1) Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAQPG3567J		

Assessee by : Shri Vibhor Ghai, CA

Department/Revenue by : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing: 13.01.2026	Date of Pronouncement: 13.01.2026
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ORDER

PER RENU JAUHRI :

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre, New Delhi [for short, Ld. CIT (A)/NFAC], u/s 250 of the Income Tax Act (for short, the "Act"), order dated 07.08.2025 in the Appeal No. NFAC/2017-18/10049801.

2. The assessee has raised following grounds of Appeal:

“ *Legal Grounds* ”

(1) The Appellant has been filing his ITR which is being carried out by his family for the last 40 years. But the Ld. CIT(A)

copies the AO's version without independent adjudication so there is non application of mind so the order deserves to be dismissed and so non-operative.

- (2) The Ld. CIT (A) failed to act as an independent adjudicating authority so the order passed by him is bad in law.*
- (3) By failing to consider the submission of the appellant and the revised grounds of appeal filed, the Ld. CIT(A) has acted merely rubber-stamp of the AO's order, so denied the fair hearing therefore the order is fit to be dismissed.*
- (4) The order passed by the Ld. CIT(A) is legally and factually incorrect because it lacks proper judicial review of the case.*
- (5) This order of Ld. CIT(A) deserves to be dismissed because it is established by comparing the CIT(A)'s order with AO's order to highlight verbatim copying and lack of analysis of the appellant's counter argument and the revised grounds of appeal available before him which is copied on consideration that this is written submission which can be seen in the order referring this paragraph.*
- (6) The order of Ld. CIT(A) deserves and fit to be dismissed because there is a gross miscarriage of justice and also a clear violation of constitutional rights.*
- (7) This order of Ld. CIT(A) is also a violation of fundamental rights because this impugned order violate the principles of natural justice and fair hearing granted by the constitution.*
- (8) The order of the Ld. CIT(A) is a proven fact that the order is passed in bad faith or under the dictation of another authority, it can be quashed.*
- (9) The Hon'ble Supreme Cort has affirmed a Calcutta High Court judgement in the case of Girdhar Gopal Dalmia vs UOI (2024) has quashed the order because there is a lack of independent application of mind while there is verbatim.*

- (10) *The Ld. CIT(A) and also the Ld. AO has disregarded the Principle of Natural Justice, the Right of Being Heard and the Right to Reply of the appellant despite all the notices are replied in time with all necessary and required enclosures which none of them appreciated without giving any reason in these non-reasoned, non-speaking orders, passed with their own surmises and conjunctures.*
- (11) *Ld. Assessing Officer has erred by not giving opportunity of being heard to the Appellant several times during assessment proceedings and thus not adhering to the Principles of Natural Justice and decided the case on his own whims and fancies without considering any of the replies called for.*

Grounds on Merit

- (12) *The Ld. CIT(A) and the Ld. AO has erred by making addition u/s 69A of the Act, 1961 which is part of the Audited books, on which commission after TDS, acting as a commission agent under possession of license for the same and on the other side also accepting the commission in return income.*
- (13) *Both the Ld. CIT(A) and Ld. AO failed to apply/seek information vide notice under section 133(6) before arriving on any conclusion.*
- (14) *The Ld. CIT(A) and the Ld. AO has erred to ignore the trend that there is a direct relation between sales made and deposits in the bank account. The sales made to local vegetables hawker are hundreds in number who generally makes payment in cash. This is the identical with trend of past AYs and the Appellant is in the same nature of business pattern since last 40 years or so. Ld. CIT(A) & the Ld. AO both has ignored this fact despite providing bank account statement details for the AY of both the parties.*
- (15) *Ld. AO and the Ld. CIT(A), both has erred and ignored that there is a business of commission agent under the APMC licensee and that copy of monthly water bill and the amount to the accounts of Kishan Chand Lalit Kumar is ignored. (copy enclosed of both account statements and reconciliation separately) (Annexure H to Annexure -K)*

- (16) *The Ld. AO as well as Ld. CIT(A) ignored the facts on record without truly understanding the nature of the business that APMC [Agricultural Produce Marketing Committee) gets 1% as 'Market Fee' of the turnover which is available (copy enclosed as Annexure D) on the payment portal of APMC. The same in the case of the Appellant where Market fee of Rs. 66,620/- is paid to APMC for a goods arrived and handled worth of Rs. 66,62,000/-.*
- (17) *The Ld. AO and the CIT(A) has not objected about the business carried out in which commission has been paid by M/s Kishan Chand Lalit Kumar and earned by the Appellant Yashpal Grover on a total turnover of Rs. 15,15,47,500/- after deducting TDS @ 5% i.e. Rs. 75,775/-.*
- (18) *The Id. AO and the CIT(A) have failed to appreciate that the cash deposited was paid to M/s Kishan Chand Lalit Kumar through proper banking channels during the same financial year. Furthermore, the amount received by M/s Kishan Chand Lalit Kumar has been duly disclosed as sales to the APMC, and the corresponding market fee has also been paid to the APMC.*
- (19) *That neither the Ld. CIT(A) nor the Ld. AO has examined the concept of APMC and its mandate, Market fee etc. during the entire respective proceedings and this is fact on record and has made addition even without any speaking details thus order is bad in law.*
- (20) *It is the obligatory duty on the part of the Ld. CIT(A) and the Ld. AO under the law that the quasi-judicial authority should go deep into the facts of the case, understand the nature of business and the APMC.*
- (21) *That section 69A applies when an assessee possesses unexplained cash, bullion, or other valuable items not recorded in their books of account. Courts have clarified that this provision is valid only when books of account exist. There is no question on it that Ld.AO has brought any fact for this section on record in the impugned order. The commission income is already offered to tax.*

- (22) *Therefore, the assessment order and the appellate order confirming the addition u/s 691 of the Act, 1961 is fit to be quashed which is passed without application of mind and without following the due process of law and without considering the written submissions of the Appellant and without considering the factual matrix of the case and thus passing a non-speaking order.*
- (23) *That the Ld.AO has erred by invoking section 115BBE for considering unexplained income thus this is to be dropped.*
- (24) *The order passed by the Learned Assessing Officer is against the law and the facts as much as he was not justified in making addition of Rs. 11,76,51,570/- u/s 69A allegedly unexplained income while there is neither any proof nor have proved by the Ld. AO.*
- (25) *The impugned order is passed on surmises and conjecture i.e. on guess work without definitely knowing it and only and solely on the hypothesis. The Learned Assessing Officer and the Ld. CIT(A) while copying the order of the Ld. AO verbatim, has not made a single enquiry due to the virtue of being an assessing officer, having coterminous power with the first appellate authority and only pasted the imagination of him therefore the order is null and void.*
- (26) *The section 69A lays down about any unexplained income but failed to explain the same in the order and thus passing a cryptic order making the same as void ab initio.*
- (27) *There is plethora of judgments of the Hon'ble Supreme Court that where the AO as well as CIT(A) has failed to apply his mind and therefore the order passed is termed as null and void, being illegal.*
- (28) *The Hon'ble ITAT is the second appellate authority and has the power to set aside orders where there is a clear non-application of mind.*

(29) The Appellant craves for the permission to add, modify or delete any of the grounds of appeal. ”

3. Brief facts of the case are that the assessee filed his return for A.Y. 2018-19 on 31.10.2018 declaring income of Rs. 2,93,930/-. The case was selected for scrutiny and assessment was completed u/s 143(3) r.w.s 144B at an income of Rs. 11,79,45,500/- after making addition of Rs. 11,76,51,570/- on account of unexplained deposits in bank accounts u/s 69A of the Act. Aggrieved, the assessee preferred an appeal against the order before Ld. CIT(A). The appeal was dismissed by Ld. CIT(A) after holding that the assessee had failed to explain the source of cash deposits made in his bank accounts. Further aggrieved, the assessee has filed the present appeal before the Tribunal.

4. Before us, Ld. AR has submitted that the assessee is carrying on the Prop. Business of selling vegetables on commission basis and earns commission income thereon. He has further submitted that Ld. CIT(A) did not give the assessee reasonable opportunity to produce requisite documentary evidences and has dismissed the appeal by simply relying on the order of the Ld. AO. In view of these facts and circumstances, he has requested for remanding the matter to Ld. CIT(A) for fresh adjudication after giving proper opportunity to the assessee. Ld. DR has not controverted the said proposition.

5. After hearing both the parties, in the interest of justice, we hereby restore the matter to Ld. CIT(A) for fresh adjudication on merits after giving reasonable opportunity of being heard to the assessee.

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

Order pronounced in the Open Court on 13 -01-2026.

**Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT**

**Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER**

Dated: 21.01.2026

Pooja Mittal

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi