

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
[conducted through Hybrid mode]**

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

**I.T.A. Nos.178, 179 & 180/Ind/2025
(Assessment Years: 2014-15, 2015-16 & 2016-17 respectively)**

| | |
|---|--------------------------------|
| Bharat Kalwani C/o. S.V. Agarwal & Associates Dadi Dham 24, Joy Builders Colony Near Rafeel Tower Old Palasia 452 018 (M.P.) | The ITO-4(3) Indore 452 001 |
| PAN No. ACBPK 8358 A | |
| (Appellant) | (Respondent) |

| | |
|----------------------|------------------------|
| Assessee by : | CA Sh. S.N. Agrawal |
| Revenue by : | Sh. Anup Singh, CIT-DR |

| | |
|------------------------------|------------|
| Date of Hearing | 23/12/2025 |
| Date of Pronouncement | 21/01/2026 |

ORDER

PER SIDDHARTHA NAUTIYAL - JM:

The captioned appeals have been filed by the assessee against the separate orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the “the CIT(A)"] of even date 18/12/2024 passed for Assessment Years (AYs) 2014-15, 2015-16 & 2016-17. Since common facts and issues for consideration are involved for all the years under consideration before us, all appeals are being taken up together.

ITA Number 178/Ind/2025 (assessment year 2014-15)

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

“1 That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deciding the appeal ex-parte.

2. That on the facts and in the circumstances of the case and in law, the Ld. Assessing Officer erred in passing the assessment order without even considering the submission prepared in response to the show cause notice which was mailed to the concerned M/s IDs thereby depriving the appellant of an effective opportunity of being heard which is grossly violative of the principles of natural justice

3. That on the facts and in the circumstances of the case and in law, the Ld. Assessing Officer erred in reopening the case of the appellant in the absence of any tangible material and live link of concealment of income and merely on the basis of borrowed opinion without independent application of mind.

4. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 13,50,000/- made by the Assessing Officer to the total income of the appellant on account of alleged accommodation entry received from M/s Sunil Kumar Rajesh Kumar (Proprietorship concern of Shri Sunil Kumar Lalwani) by treating it as unexplained money under section 69A of the Act without properly appreciating the facts of the case.

5. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 8,00,000/- included in the amount of Rs. 13,50,000/- made by the Assessing Officer to the total income of the appellant on account of alleged accommodation entry received by the firm, M/s Rukmani Roadlines from M/s Sunil Kumar Rajesh Kumar (Proprietorship concern of Shri Sunil Kumar Lalwani) by treating it as unexplained money under section 69A of the Act even when the appellant was not the proprietor of M/s Rukmani Roadlines and Shri Sunil Kumar Lalwani (PAN: AAJPL4938M) himself was the proprietor of M/s Rukmani Roadlines

6. The appellant reserves the right to add, alter and modify the grounds of appeal as taken by him.”

3. The brief facts of the case are that the assessee is an individual and proprietor of M/s Jawahar Ice Depot and M/s Rukmani Roadlines, who filed his return of income for Assessment Year 2014–15 on 30.09.2014 declaring a total income of ₹4,47,380/-. Subsequently, on the basis of information available with the department, it was noticed that the assessee had allegedly obtained bogus purchase accommodation entries amounting to ₹5,50,000/- in the concern M/s Jawahar Ice Depot and ₹8,00,000/- in the concern M/s

Rukmani Roadlines, aggregating to ₹13,50,000/-. These alleged accommodation entries were stated to have been received from M/s Sunil Kumar Rajesh Kumar, a proprietary concern of Shri Sunil Kumar Lalwani. During investigation proceedings, summons under section 131(1A) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) were issued to Shri Lalwani, who in his statement admitted that his concern was engaged in providing accommodation entries and that the amounts deposited in his bank accounts were mainly on account of issuing bogus purchase bills to various beneficiaries, which were later withdrawn in cash after charging commission. He also failed to substantiate any genuine trading activity in grains as claimed by him.

3.1. Based on this information, the case of the assessee was reopened under section 147 of the Act. In response, the assessee filed a return of income on 25.04.2021 declaring the same income as originally returned. During the reassessment proceedings, notices under sections 143(2) and 142(1) of the Act were issued calling upon the assessee to furnish details of purchases, supporting bills, bank statements and evidence regarding the transactions with Shri Sunil Kumar Lalwani. However, the assessee did not comply with these notices and did not furnish any documentary evidence in support of the alleged purchases. Thereafter, a show cause notice under section 144 of the Act was issued proposing to treat the sum of ₹13,50,000/- as unexplained money. As there was no response from the assessee and the assessment was getting barred by limitation, the Assessing Officer completed the assessment ex parte under section 144 read with section 147 and section 144B of the Act. The Assessing Officer treated the entire amount of ₹13,50,000/- as

unexplained money under section 69A of the Act and added the same to the income of the assessee, while also initiating penalty proceedings.

4. Aggrieved by the assessment order dated 27.03.2022, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals). Before the CIT(Appeals), the assessee challenged the reopening of assessment, the validity of the assessment framed without adequate opportunity, and the addition of ₹13,50,000/- under section 69A of the Act on account of alleged accommodation entries. It was also contended that the assessee had established the identity and creditworthiness of the party and the genuineness of transactions, and further objected to the inclusion of ₹8,00,000/- relating to M/s Rukmani Roadlines.

5. During the appellate proceedings, the CIT(Appeals) issued several notices under section 250 of the Act granting opportunities to the assessee to file written submissions and supporting documentary evidence. However, except for filing Form No. 35 along with a copy of the assessment order, the assessee did not file any substantive submissions or evidence on the e-filing portal. Despite repeated adjournments and opportunities granted over a considerable period, the assessee remained non-compliant and failed to controvert the findings recorded by the Assessing Officer. The CIT(Appeals) observed that the assessee consistently sought adjournments without placing any material on record and appeared to be not interested in effectively prosecuting the appeal.

5.1. In view of the persistent non-compliance and absence of any rebuttal to the conclusions drawn by the Assessing Officer, the CIT(Appeals) held

that the assessee had failed to discharge the onus cast upon him to explain the alleged accommodation entries. Accordingly, the CIT(Appeals) upheld the action of the Assessing Officer in treating the amount of ₹13,50,000/- as unexplained money under section 69A of the Act and dismissed the appeal of the assessee.

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

7. Before us, the Counsel for the assessee submitted that the assessee tried to submit the written submissions at the online portal of the Assessing Officer but the same was closed prior to the due date granted to file written submissions and therefore, the assessee was precluded from filing the same. The Counsel for the assessee drew our attention to the relevant pages of Paper-Book.

8. In response, the Ld. DR placed reliance on the observations made by the Assessing Officer and Ld. CIT(Appeals) in their respective orders.

9. We have heard the rival contentions and perused the material on record. On going through the case records, we note that the Assessing Officer issued first show cause notice on 16 December 2021, but the assessee did not file any reply. Then the Assessing Officer issued notice on 10 March 2022 asking the assessee to file reply by 14 March 2021 and again the assessee disallowance not reply. Again the Assessing Officer issued notice on 22 March 2022 asking the assessee to file reply by 24 March 2022, and as per the assessee he tried to upload the reply on the same date i.e. 24 March 2022

at 11:11 pm but the e-filing portal had closed and thereby the assessee did not get an opportunity to present its case on merits. Notably, an identical trend is seen for all assessment years under consideration before us: for assessment year 2015-16, the assessee he tried to upload the reply on the same date i.e. 24 March 2022 at 11:26 pm but the e-filing portal had closed and for assessment year 2016-17 the assessee he tried to upload the reply on the same date i.e. 24 March 2022 at 11:57 pm but the e-filing portal had closed. Further, we observe that CIT(Appeals) issued notices on 06-04-2023, 02-08-2023, 02-10-2024, 17-10-2024 and 29-10-2024, but the assessee sought adjournments on several occasions but did not file any reply. The Counsel for the assessee has submitted that the assessee did not get an effective opportunity of hearing to present its case on merits.

9.1. On a thorough examination of the case records, we find that the assessment as well as appellate proceedings in the present case have been marked by a consistent and repeated pattern of non-compliance on the part of the assessee. The record clearly shows that the Assessing Officer had issued the first notice under section 142(1) of the Act on 16.12.2021 calling upon the assessee to furnish complete details and evidences relating to the alleged accommodation entries. The assessee chose not to file any reply. Thereafter, another notice was issued on 10.03.2022 granting time up to 14.03.2022, to which also no response was filed. Once again, a final show cause notice was issued on 22.03.2022 requiring the assessee to file a reply by 24.03.2022. Even at this stage, no reply was filed within the prescribed time.

9.2. The explanation now sought to be advanced by the assessee is that he attempted to upload the reply on the very last date, i.e. 24.03.2022, at 11:11

p.m., but the e-filing portal was closed. What is significant is that an identical explanation is put forth for all other assessment years as well, wherein the assessee claims to have attempted uploading replies on the same date at 11:26 p.m. for Assessment Year 2015–16 and at 11:57 p.m. for Assessment Year 2016–17. This conduct, when seen cumulatively, demonstrates a deliberate pattern of waiting till the very last moment, despite repeated opportunities spread over several months, and thereafter seeking to attribute the failure to file replies to technical reasons. Such conduct cannot be accepted as bona fide.

9.3. The conduct of the assessee before the Commissioner of Income-tax (Appeals) also follows the same pattern. The CIT(Appeals) (for assessment year 2014-15) issued multiple notices on 06.04.2023, 02.08.2023, 02.10.2024, 17.10.2024 and 29.10.2024. On each occasion, the assessee merely sought adjournments on one pretext or the other but failed to file any written submissions or supporting evidence. Even at the appellate stage, the assessee did not avail of the opportunities granted and did not controvert the findings of the Assessing Officer on merits. This persistent non-responsive approach clearly shows that the assessee has been deliberately avoiding adjudication on merits while simultaneously attempting to take advantage of the principles of natural justice.

9.4. At the same time, we also take note of the submission of the learned counsel for the assessee that no effective opportunity was ultimately availed to place the case on merits and that serious additions have been made based on ex parte proceedings. Considering the fact that the additions involve allegations of accommodation entries and unexplained money, and keeping

in mind that tax liability should ultimately be determined on the basis of correct facts and evidence, we are of the considered view that one final opportunity should be granted to the assessee to present his case before the Assessing Officer.

9.5. However, such indulgence cannot be unconditional. The record unmistakably establishes that the assessee has repeatedly attempted to circumvent the tax authorities by adopting delaying tactics, seeking adjournments without filing replies, and by approaching the electronic portal at the last possible moment so as to later plead technical failure. This conduct has resulted in unnecessary consumption of administrative time and has frustrated the statutory proceedings at multiple stages. Therefore, while restoring the matter for de novo consideration, it is necessary to balance the interest of justice with the need to discourage such conduct.

9.6. Accordingly, in the interest of justice, we restore the matter to the file of the Assessing Officer for de novo consideration. The Assessing Officer shall afford one final and effective opportunity of hearing to the assessee to file all his submissions, documentary evidences and explanations on merits. The assessee is directed to fully cooperate in the proceedings and shall not seek unnecessary adjournments. The Assessing Officer shall thereafter pass fresh assessment orders in accordance with law after duly considering the material placed on record.

9.7. As a consequence of the assessee's repeated and deliberate non-compliance and obstructive conduct, we deem it appropriate to impose costs. Accordingly, a cost of ₹5,000/- for each assessment year under appeal is

- 9 -

imposed upon the assessee. The said cost shall be deposited by the assessee before the Assessing Officer within a period of 30 days from the receipt of this order and proof of such payment shall be furnished to the Assessing Officer. It is made clear that failure to deposit the said cost within the stipulated time shall entitle the Assessing Officer to proceed in accordance with law.

9.8. The Assessing Officer is further directed to take note of the conduct of the assessee as recorded herein while regulating the proceedings and granting adjournments, if any, during the fresh assessment proceedings.

10. In the result, all the appeals filed by the assessee are allowed for statistical purposes, subject to the payment of costs as directed above.

**Order is pronounced under provision of Rule 34 of ITAT Rules, 1963
on 21/01/2026.**

Sd/-

**(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER**

Indore; Dated 21/01/2026

Ten*

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि □ प्रेषित/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)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

//True copy//

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