

**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.242/Ind/2025  
(AY: 2012-13)

Naresh Ahirwar, Gram Badwani, New Jail Road, Bypass Road, Tehsil Huzur, District Bhopal(M.P.) <b>(PAN: AZOPA9342A)</b>	<b><u>बनाम/</u></b> Vs.	ITO -1(2), Bhopal
(Appellant)		(Respondent)
Assessee by	Shri Arpit Gaur, CA	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	13.01.2026	
Date of Pronouncement	22.01.2026	

**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]. The Assessee is aggrieved by the order bearing Number:-ITBA/APL/S/250/2024-25/1071731956(1) dated 31.12.2024 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 2012-

13 and the corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

**Factual Matrix**

2.1 That as and by way of an Assessment order made u/s **144 rws 147 of the Act**, the total income of the Assessee was computed & assessed at **Rs. 14,30,000/-**. **The assessee has not filed his return of income for the AY 2012-23.**

The aforesaid assessment order is dated **26.11.2019** which is herein after referred to as the **"Impugned Assessment Order"**.

2.2 That the Assessee being Aggrieved by the aforesaid **"Impugned Assessment Order"** prefers the first appeal u/s 246A of the Act before the Ld. CIT(A) who by the **"Impugned Order"** has dismissed the 1<sup>st</sup> appeal of the Assessee on the grounds & reasons stated therein. The core grounds & reasons for the dismissal of the 1<sup>st</sup> appeal are as under:-

*"5.4 It is pertinent to note that the main issue involved in this case is regarding source of cash deposited in the bank account of the appellant. It is undisputed fact that the appellant deposited cash of Rs. 14,30,000/- in the bank account. It is also seen that in the form No. 35, no grounds of appeal were mentioned by the appellant. However, in the written submission, the appellant raised five grounds of appeal which are mainly related*

*admissibility of deduction under section 54B on account of purchase of agrl. Land.*

*5.5 As discussed above, the issue involved in this case was related to source of cash deposited in the bank account. But, the appellant failed to furnish any documentary evidence in support of cash deposit of Rs. 14,30,000/-. However, in the written submission, it is claimed by the appellant that he sold the agricultural land and the payment was received in cash and the same cash was deposited in the bank account. It is also pertinent to note that on the 3rd page of the submission, the appellant has not mentioned the details of sale of agrl. Land, moreover, the date of sale of agrl. Land shown as blank.*

*5.6 Thus, the appellant was given an opportunity and issued notice under section 250 dated 13.12.2024 fixing the case for hearing on 20.12.2024. The information called for was as under :- Please furnish copy of Bank account for the period 01.04.2011 to 31.03.2012.*

*In the written submission, it is stated that the source of cash deposit in the bank account is cash sale consideration of the agrl, land but no copy of sale agrl land is provided. You are hereby once again requested to provide the copy of the same with detail explanation of source of cash deposit in question. Please note, no further adj. will be given and necessary order will be passed on the basis of information available on records.*

*5.7 As mentioned above, the appellant was specifically asked to furnish the copy of the sale agreement of agrl. Land in support of cash deposit. But, the appellant failed to furnish the same after availing sufficient opportunity of being heard. In nutshell, the issue involved in this case was regarding source of cash deposit in the bank account to the tune of Rs. 14,30,000/-. In the written submission, it is claimed by the appellant that he had received cash out of sale of ancestral agril.land. No copy of such sale deed, date of sale etc is provided by the appellant. It is well settled law that the burden of proof is always on the person who makes the claim. In this case, it is the appellant who has made the claim by filing the appeal, was supposed to furnish documentary evidence in support of his claim. Thus, the claim of the appellant is not acceptable.*

*7.1 In the light of the above discussion and taking into account the entire conspectus of this case, I see no reason to disturb the categorical findings of the assessing officer regarding addition made at Rs.14,30,000/- on account of unexplained cash deposit in the bank account. Thus, the addition made by the AO is hereby confirmed on this count.*

*7.2 In the end result, the appeal is dismissed, order passed under section 250 read with section 251 of the Act."*

2.3 The assessee being aggrieved by the "**Impugned Order**" has preferred the instant second appeal before this Tribunal & has raised the following grounds of appeal in the Form No. 36 against the impugned order which are as under:-

*"1. That, on the facts and in the circumstances of the case, the action of the learned CIT(A) in confirming the action of the AO for passing the Assessment Order u/s. 144 r.w.s. 147 of the Act by determining the income of the appellant at Rs.14,30,000/- for the relevant assessment year, is quite unjustified, unwarranted and bad-in-law.*

*2 That, the learned CIT(A) grossly erred, in law, in upholding the action of the Id. AO in assuming the jurisdiction over the case of the appellant for issuing the notice under s.148 of the Act and framing of the re-assessment under s.147 of the Act in pursuance thereof.*

*3. That, the learned CIT(A) grossly erred, both on facts and in law, in confirming the action of the Id. AO for making an addition of Rs.14,30,000/- in the appellant's income on the allegation of unexplained cash deposits in bank account without properly considering and appreciating the facts and circumstances of the case of the appellant and as also, without properly considering the submissions of the appellant made before him along with supporting documentary evidences.*

*4. That, the appellant further craves leave to add, alter or amend the foregoing ground of appeal as and when considered necessary."*

### 3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 13.01.2026 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 contended that the assessee is farmer & his main source of income is from the Agriculture. The assessee had deposited cash in his saving bank account of approximately **14 lakhs thirty thousand**. It was submitted that notices were not **received including by speed post**. It was submitted that source of cash deposit was act of **selling of the ancestral Agriculture lands**. Our attention was invited to the internal pages 3 to 6 the impugned order wherein "exparte nature of **"Impugned Assessment Order"** was **highlighted** as and by way of submission for ground No. 1, the agriculture land was sold & **new purchases** made hence claim u/s 54B the explanation for grounds no. 2 & other explanations were highlighted too during course of haring. It was also submitted that on internal page No. 14 of the impugned order the Ld. CIT(A) has said that **copy of sale agreement of agriculture land in support of cash deposit is not furnished despite opportunities**. Para 5.7 of impugned order the attention was invited to attention was invited to para 5.3 of the **"Impugned**

**Order”** and it was urged that **lands were purchased too**. It was submitted that total **3 lands** were purchased out of which one was in the name of assessee & the another two were in the names of his wife. A statement showing details of agriculture land sold during the **year numbering 9** & a statement showing details of agriculture **land purchased was filed on the date of hearing i.e 13.01.2023**. The said statement is reproduced below:-

**NARESH AHIRWAR, BHOPAL**  
A.Y. 2012-13

7<sup>th</sup> 13/1/20

**STATEMENT SHOWING DETAILS OF AGRICULTURAL LAND SOLD DURING THE YEAR**

S. No.	Date of Sale	Description of Property	Area	Amount of Sale Consideration	Mode of Receipt	Relevant Page No. of Paper Book
1	19-04-2011	Agricultural land situated at Khasra No. 4/4, village Lambakheda, P.H. No. 06 (New 10), Tehsil Huzur, District Bhopal	0.011	2,00,000	Cash	29-38
2	27-04-2011	--do--	0.005	89,500	Cash	39-46
3	04-05-2011	--do--	0.011	1,79,000	Bank/Cash	47-56
4	04-05-2011	--do--	0.016	2,95,000	Cash	57-66
5	27-07-2011	--do--	0.005	89,500	Cash	67-74
6	02-12-2011	--do--	0.005	89,500	Cash	75-84
7	15-12-2011	--do--	0.011	1,79,000	Cash	85-94
8	21-12-2011	--do--	0.011	1,79,000	Cash	95-104
9	28-03-2012	--do--	0.013	2,16,300	Cash	105-111
<b>TOTAL</b>			<b>0.088</b>	<b>15,16,800</b>		

**STATEMENT SHOWING DETAILS OF AGRICULTURAL LAND PURCHASED BY THE APPELLANT**

S. No.	Date of Purchase	Description of Property	Area	Amount of Purchase Consideration	Person in whose name registered deed has been executed	Mode of Payment	Relevant Page No. of Paper Book
1	09-05-2012	Agricultural land situated at Khasra No. 180/21/1/1/2, village Taravali, P.H. No. 04, Tehsil Geratganj, District Raisen	1.619	12,37,883	Self	Cash	16-22
2	28-04-2011	Agricultural land situated at Khasra No. 58/1/1/1 & 169/77/1, village Taravali, P.H. No. 04, Tehsil Geratganj, District Raisen	0.849	5,41,033	Smt. Vinita Ahirwar (Wife)	Cash	23-25
3	28-04-2011	Agricultural land situated at Khasra No. 58/1/1/2 & 169/77/1/2, village Taravali, P.H. No. 04, Tehsil Geratganj, District Raisen	0.898	5,67,410	Smt. Vinita Ahirwar (Wife)	Cash	26-28
<b>TOTAL</b>			<b>3.366</b>	<b>23,46,326</b>			

Basis above it was also submitted that the Ld. AO should do correlation between cost of acquisition & fair market value. PB from pages 1 to 28 was placed on record including

additional paper book from pages 29 to 111. It was submitted that an application for additional evidence under rule 29 read with rule 18(4) is too placed on record for consideration. The Ld. AR is summation of his arguments contended that the instant case requires in depth assessment by the Ld. AO after verification of sale deeds now placed on record. Per contra the Ld. DR contended that the Revenue has no objection if the matter is remanded back to the file of the Ld. AO for verification & passing a fresh assessment order on denovo basis.

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 & the Ld. DR

canvassed before us, are of the considered view that the **“Impugned Assessment Order”** is under section **144/144B of the Act** & and the matter has not been adjudicated & adjudged basis merits. Even the **“Impugned Order”** is not on Merits of the case. This Tribunal desires that the total income of the assessee should be computed & and be assessed on real time basis exigible to tax in accordance with law by following the due process of law, under the Act. This Tribunal also expects the assessee to be complaint & should cooperate with the Department as & when notice(s), etc. are issued. In brief this Tribunal desires meritorious disposal of both the **“Impugned Assessment Order”** as well as the **“Impugned Order”**. The Assessee’s cooperation in this regard assumes importance. The Assessee cannot go in **slumber mode**. In the result we are of the considered opinion that the **“Impugned Order”** should be set aside & the matter should be remanded back to the file of the Ld. AO for passing a fresh order on merits of the case. It is expectation of this Tribunal that the Assessee would give his full & complete details of his income ,sale, purchase etc.

including latest e-mails of his & and his counsel where notices could be served effectively by Department. The Assessee to attend hearings as & when fixed & file reply/submission and to give all such details as is sought by the Ld. AO.

4.4 In view of the premises drawn up by us, the impugned order is set aside as and by way of remand back to the file of the Ld. AO on denovo basis with directions as contained in para 4.3 (supra).

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**Order**

5.1 In the result, the impugned order is set aside as & by way of remand back to the file of the Ld. AO on denovo basis.

5.2. In result, appeal is allowed for statistical purpose.

**pronounced in open court on 22.01.2026.**

Sd/-

Sd/-

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

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

**Indore**  
Dated : 22/01/2026

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