

**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.369/Ind/2025  
(AY: 2013-14)

Suresh Kumar, 112, Manas Bhawan, 11 RNT Marg, Indore <b>(PAN: EEKPS7728B)</b>	<b><u>बनाम/</u></b> Vs.	ITO -Burhanpur.
(Appellant)		(Respondent)
Assessee by	Shri Pankaj Shah & Soumya Bumb, CAs	
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] before this tribunal as & by way of a second Appeal. The Assessee is aggrieved by the order bearingNumber:-ITBA/NFAC/S/250/2024-25/1071271588(1) dated 16.12.2024 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 2013-14 and the

corresponding previous year period is from 01.04.2012 to 31.03.2013.

2.

**Factual Matrix**

2.1 That as and by way of an Assessment order made u/s **147 rws 144/144B** of the Act, the total income of the Assessee was computed & assessed at **Rs. 67,95,681/-**. The total income as per the return of income was at **Rs.2,59,581/-**. **The Addition of Rs. 65,36,100/-** was made as unexplained money **u/s 69A of the Act**. The aforesaid **"Assessment order"** bears No. ITBA/AST/S/147/2021-22/1035850748(1) & that the same is dated **24.09.2021** which is herein after referred to as the **"Impugned Assessment Order"**

2.2 That the assessee is an individual & **a non-filer for the AY 2013-14**.

2.3 The as per the Annual Information Report (AIR) the assessee had deposited cash amounting to **Rs. 64,19,300/-** in his Bank account bearing **No. 950610110004186** maintained in the **Bank of India** during FY 2012-13

relevant to AY 2013-14. Notice u/s 148 of the Act was issued & duly served upon the assessee on **18.12.2019** on the registered e-mail id. **The assessee did not make any compliance.**

2.4 It is recorded in the **"Impugned Assessment Order"** as follows :-

*"Thereafter, notice u/s 142(1) was issued on 29.01.2021 requesting the assessee therein to file his return of income in response to the notice issued u/s 148. The assessee did not make compliance in response to the notice and did not file his return of income. A letter was issued on 05.02.2021 requesting the assessee to make compliance and file his return of income and also submit all the details and documents sought for but the assessee again made no compliance, Another opportunity was given to the assessee on 19.08.2021 but the assessee again simply ignored the notice and did not make any compliance. The assessee also did not file the return of income till date.*

2.5 It is also recorded in the **"Impugned Assessment Order"** as follows:-

*"[1] Unexplained money u/s 69A  
It was gathered from the record available in the system as per AIR information that the assessee had deposited cash amounting to Rs. 64,19,300/- in his bank account bearing No. 950610110004186 maintained in the Bank of India, Burhanpur during the FY 2012-13 relevant to the AY 2013-14. During the course of assessment proceeding, assessee did not submitted the details explaining the source of the above said cash deposit despite availing the ample opportunities.*

*A Notice u/s 133(6) vide notice no ITBA/AST/S/133(6)(N)/2021-22/1035530475(1) calling for information was issued to the Branch Manager Burhanpur Branch of Bank of India where*

*assessee had his account on 13.09.2021. In reply the branch manager has provided the details and copy of bank account statement for the period under consideration. The total cash deposited during the period as per the bank account statement is Rs. 65,36,100/-*

*As the assessee had not file his return of income u/s 139(1) originally for the AY 2013-14 and also did not file his return of income in response to the notice issued u/s 148 and has not submitted any documentary details explaining the source of cash deposit, amount of Rs. 65,36,100/- deposited in cash in the bank account remains unexplained and the same is liable to be treated as unexplained money u/s 69A. As per the section 69A of the IT Act, 1961*

*"Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or the other valuable article, or the explanation offered by him is not, in the opinion of the [Assessing officer), satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."*

2.6 That the assessee being aggrieved by the **"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 first appeal of the assessee on the grounds & reasons stated therein. The core grounds & reasons for the dismissal of the first appeal were as under:-

*"4. During the course of appeal proceedings, hearing notices were sent on 06.09.2024, 26.09.2024, 17.10.2024, 06.11.2024 and 25.11.2024. However, the appellant did not respond to the notices issued. Upon perusal of the appeal memo, the appellant filed a*

*delay condonation petition by claiming that he was aware of the assessment proceedings when he received the recovery notice u/s 226 of the IT Act. As per the principles of natural justice, the delay in filing the appeal is condoned and the appeal is admitted for adjudication. It is to be mentioned here that the appellant did not submit any statement of facts and he mentioned in the appeal memo that the statement of fact will be submitted at the time of hearing. In the grounds of appeal, the appellant claimed that the cash deposited into the bank account was agricultural income. It is for these reasons, several notices were issued by giving ample opportunities to the appellant to substantiate the grounds raised in the appeal memo. As he has not responded to all those notices, it is evident that the claim of the appellant that cash deposited into the bank account was out of agricultural income was not acceptable. Hence, the addition of Rs.65,36,100/- made as unexplained money is upheld. Further, the addition of Rs.2,59,581/- as Salary Income is also upheld.*

*5. As a result, this appeal is dismissed."*

2.7 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. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals) ("CIT(A)") erred in upholding the reassessment proceedings as the income has not escaped assessment and the assessment order passed by the AO was bad in law. The Appellant prays that the said order be quashed and the additions thereby be deleted.*

*2. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals) ("CIT(A)") erred in exparte dismissing the appeal of the Assessee and thereby confirming the addition made by the Assessing Officer. The Appellant prays that the said order be set aside to the CIT(A) for hearing on merits.*

*3. On the facts and circumstances of the case and in law the CIT(A) erred in confirming the addition of Rs.2,59,581/- under Section 15 of the Act. The Appellant prays that the said addition be directed to be deleted.*

4. *On the facts and circumstances of the case and in law the CIT(A) erred in confirming the addition of Rs.65,36,100/- on the 4 alleged ground of Unexplained money under Section 69A of the Act. The Appellant prays that the said addition be directed to be deleted.*

5. *The Appellant craves leave to add amend any or all grounds at the time of hearing."*

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 submitted that the **"Impugned Assessment Order"** as well as **"Impugned Order"** are exparte. It was submitted that the **'assessment proceedings'** commenced on 18.12.2019 with service of notice u/s 148 of the Act. It was submitted that the assessee is a non-filer. Assessee stays in small town Burhanpur MP. He has a small salary income too. He is not much familiar with computer & other devices of Information technology world. Notice u/s 148 was issued before Covid period. The opportunities were afforded to the assessee during he covid

period on **05.02.2021 & 19.08.2021**. It is recorded in the **“Impugned Assessment Order”** that an amount of Rs. 2,59,581/- was paid to assessee by Tamilnadu State Transport Corporation (Tirunelveli) Ltd. After deduction of TDS of Rs.1896/ u/s 192. In so far as the **“Impugned Order”** is concerned is was submitted that no physical copy of notice of hearing came to the assessee. There was no service on e-mail id too. It was submitted that in the form No. 35 e-mail id given was [rejuk076@gmail.com](mailto:rejuk076@gmail.com) whereas e-mail was sent on [ca\\_gdmit@rediffmail.com](mailto:ca_gdmit@rediffmail.com) The relevant e-mail dated 25.11.2024 was placed on record evidencing that notice u/s 250 was sent on [ca\\_gdmit@rediffmail.com](mailto:ca_gdmit@rediffmail.com) & **not on [rejuk076@gmail.com](mailto:rejuk076@gmail.com)**. It was finally contended that there is a breach of the principles of natural justice & ultimately no opportunity could be availed off by the assessee. Per contra the Ld. DR for & on behalf of the revenue submitted that in the peculiar facts & circumstances of the present case in hand the revenue has no objection if the impugned order is set aside & the matter is remanded back to the file of the Ld. AO for fresh adjudication & ad judgment basis

merits of the case. The Ld. DR emphasised that a small token cost be imposed on the assessee as & by way of a deterrent measure in order to meet the ends of justice. In the rejoinder the Ld. AR submitted that an amount of Rs. 2500/- as & by way of cost would be just fair & equitable.

4. **Observations, Findings & conclusion's**

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 opinion that the **"Impugned Assessment Order"** is under section 144/144B of the Act & the matter in the ultimate analysis of things has not been adjudicated & adjudged basis merits. Even the **"Impugned Order" is not on merits**. This Tribunal desires that the total income of the assessee should be computed & assessed on

the 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 compliant & should cooperate with the department as & when notice(s) etc are issued. In brief this Tribunal desire the 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 the merits of the case. It is the expectation of this Tribunal that the assessee would give his full & complete **details including the latest e-mail of his & his counsel where the notice(s) could be served effectively by the department**. The assessee to attend hearings as & when fixed & file reply submissions & all the material details as is sought by the Ld. AO.

4.4 In the premises drawn up by us, we set aside the **"Impugned Order"** & remand the case back to the file of the

Ld. AO on **denovo basis** who shall now pass a fresh speaking & well-reasoned order basis merits of the case. The assessee is directed to pay to the department cost of Rs. 2500/- to the department of income tax as & by way of a challan under the category **others**. The assessee is directed not to take any credit against payment of cost of Rs. 2500/- towards taxes, interest etc.

5

**Order**

5.1 In the result the "**Impugned Order**" is set aside as & by way of remand back to the file off the Ld. AO with directions as per para 4.3 & 4.4 above.

5.2 In the result appeal of the assessee is allowed for statistical purpose.

**pronounced in open court on 22.01.2026.**

Sd/-

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

Sd/-

**(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