

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य  
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 71 /Chd/ 2025  
निर्धारण वर्ष / Assessment Year : 2019-20

The ITO Ludhiana	बनाम	Sri Guru Hargobind Educational Society C/o Hargobind Public School, Village-Thakkar Wal, Pakhowal Road, Ludhiana
स्थायी लेखा सं. / PAN NO: AAFAS9717C		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Sanjeev Gupta, C.A (Virtual Mode)  
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 12/01/2026  
उदघोषणा की तारीख/ Date of Pronouncement : 20/01/2026

## आदेश/ Order

### **PER KRINWANT SAHAY, A.M:**

This is an appeal filed by the Revenue against the order of the Ld. CIT(A), NFAC, Delhi dt. 18/11/2024 pertaining to Assessment Year 2019-20.

2. In the present appeal, Assessee has raised the following grounds:

1) That, the Ld. Commissioner of Income Tax(Appeals) has erred in allowing the appeal of the assessee and setting aside the matter to the file of AO, without going into and discussing the merits of the case that Assessing Officer had given sufficient opportunities to file the reply to the assessee.

2) That, the Ld. Commissioner of Income Tax(Appeals) has erred in allowing the appeal of the assessee and setting aside the matter to the file of AO, for adjudication without taking into consideration whether there were justifiable grounds for making total non-compliance by the assessee before the CIT(A) as well as AO.

3) That, the Ld. Commissioner of Income Tax (Appeals) has erred in allowing the appeal of the assessee, and setting aside the assessment order back to the file of the A.O after merely provoking the newly inserted provision 251(1)(a) to section 251 of the Income Tax Act, 1961.

*4) That, the Ld. Commissioner of Income Tax (Appeals) has failed to appreciate the fact that the addition of Rs. 1,00,28,281/- made by the AO being unexplained money u/s 69A of the Income Tax Act. 1961 as the assessee had failed to furnish any explanation on this issue during the course of assessment proceedings.*

*5) That, the Ld. Commissioner of Income Tax (Appeals) has failed to appreciate the fact that the addition of Rs. 61,606/- made by the AO being undisclosed interest income and the assessee had failed to furnish any explanation on this issue during the course of assessment proceedings.*

*6) That, Reliance is placed on the judgement of Hon'ble High Court of Gujarat at Ahmedabad in the case of Principal Commissioner of Income Tax-3, Vs. Ashokji Chanduji Thakor dated 27.06.2018 wherein the order passed by the Hon'ble ITAT was quashed & order of AO/CIT(A) were restored.*

*7) That the appellant craves leave to add or amend any ground of appeal before it is finally disposed*

3. Briefly, the facts of the case are that the assessee, an Association of Persons (AOP), failed to furnish a return of income for Assessment Year 2019-20, and the case was consequently selected for scrutiny through the Non-Filing of Return (NMS) from the Insight portal, which reflected escapement of income on account of substantial financial transactions. Information available on record indicated cash deposits amounting to Rs. 1,00,28,221/- in Punjab National Bank and interest earnings of Rs. 61,606/- from Union Bank of India, Bank of India and other accounts. Based on these inputs, the Assessing Officer reopened the assessment under Section 147 and issued notice under Section 148 dated 29.03.2023, pursuant to which the assessee filed a return on 19.04.2023 declaring nil income. During the reassessment proceedings, statutory notices under Sections 143(2) and 142(1) were issued calling for explanations and documentary evidence regarding the source of cash deposits, business activities, and bank ledgers. The assessee subsequently filed ITR-7 claiming exemption under Section 10(23C)(iiiad) of Rs. 2,39,600 and sought adjournment; however, despite repeated opportunities spread over more than 25 days, no supporting evidence such as registration documents, bye-laws, income and expenditure statements or bank reconciliations was produced. The AO, noting persistent non-compliance and the absence of primary records to verify the

exemption claim or explain the nature of receipts, rejected the claim as unsubstantiated. Owing to the statutory time limitation and the assessee's failure to discharge the burden of proof, the AO concluded the assessment ex-parte under Section 144, determining that cash deposits of Rs. 1,00,28,281/- constituted unexplained money taxable under Section 69A, and the interest income of Rs. 61,606/- was liable to be assessed as "Income from Other Sources," thereby computing the total income at Rs. 1,00,89,887/-. Consequent penalty proceedings were initiated under Section 271AAC in respect of the addition under Section 69A, under Section 270A for under-reporting of income, and under Section 272A(1)(d) for non-compliance with statutory notices.

4. Against the order of the AO the assessee went in appeal before the Ld. CIT(A). The learned CIT(A) examined the appeal filed against the reassessment order passed under section 147 read with section 144 of the Act. It has been recorded by the CIT(A) that the assessment had been completed ex-parte owing to non-compliance with statutory notices, though such notices had been duly issued and served. The CIT(A) has further taken note of the explanation that the assessment proceedings could not be attended because the President of the Society, who was handling statutory and financial affairs, had fallen ill and thereafter passed away, while the remaining office bearers were occupied in unrelated civil litigation. As a result, the requisite submissions had not been furnished during the assessment stage.

4.1 It has also been noted by the CIT(A) that during the appellate proceedings, various documents including books of account, bank statements and supporting papers were produced, and a request had been made for their admission under Rule 46A of the Income-tax Rules, 1962. Since these materials had not been examined by the Assessing Officer owing to the ex-parte nature of the order, the CIT(A) considered it appropriate to allow their consideration at the assessment stage.

4.2 Taking into account the factual matrix and the statutory amendment introduced by the Finance Act, 2024 empowering the Commissioner (Appeals) to set aside assessments framed under section 144, the CIT(A) concluded that the matter required fresh adjudication by the Assessing Officer. Consequently, the assessment has been set aside and the case restored to the file of the Assessing Officer with the direction that a de novo assessment be framed after providing adequate opportunity to the assessee and after examining the evidences submitted.

4.3 Based on the above findings, the CIT(A) has treated the appeal as allowed for statistical purposes.

5. Against the order passed by the Ld. CIT(A) the Revenue preferred in appeal before the Tribunal.

6. The Ld. DR contended that the CIT(A) erred in allowing the assessee's appeal and remanding the matter to the Assessing Officer without examining the merits or appreciating that sufficient opportunities were granted during assessment. It was submitted that the assessee remained fully non-compliant before both the AO and the CIT(A), and therefore no justification existed for restoring the matter for fresh adjudication.

6.1 The DR argued that the CIT(A) incorrectly relied on the amended provision of section 251(1)(a) without demonstrating its applicability to the facts. It was emphasized that the additions of Rs.1,00,28,281/- under section 69A as unexplained money and Rs.61,606/- as undisclosed interest income were made only after the assessee failed to furnish any explanation or evidence despite repeated notices. Reliance was placed on the judgment of the Hon'ble Gujarat High Court in *PCIT-3 vs. Ashokji Chanduji Thakor* (27.06.2018), wherein an improper setting aside of assessment was reversed and the AO's order restored.

The DR accordingly prayed that the CIT(A)'s order be vacated and the assessment be upheld, with liberty to raise additional grounds if required.

7. Per contra, the Ld. AR relied on the order of the Ld. CIT(A).

8. We have considered the rival submissions and perused the material available on record. In the present case it is noticed that the assessment was completed ex-parte under section 147 r.w.s. 144 owing to non-compliance and additions were made towards unexplained cash deposits and interest income. Before the Ld. Ld. CIT(A), the assessee produced books of account, bank statements and supporting documents along with a request under Rule 46A. The Ld. CIT(A), taking note that such material had never been examined by the Assessing Officer, set aside the assessment for fresh assessment by invoking powers under section 251(1)(a) as amended by the Finance Act, 2024.

8.1 The Revenue's contention that the Ld. CIT(A) could not restore the matter despite non-compliance is untenable. The Ld. CIT(A) has recorded justification for exercising the power, namely the ex-parte nature of assessment and the availability of fresh evidences requiring verification at the primary stage. The amendment to section 251(1)(a) expressly authorizes such a course in assessments completed under section 144. No error in jurisdiction has been shown by the Revenue.

8.2 The reliance placed on PCIT-3 v. Ashokji Chanduji Thakor is distinguishable, as that decision dealt with a remand without any new material. Here, documentary evidence was produced before the appellate authority for the first time. The Ld. CIT(A) has not deleted or modified the additions; the matter has merely been remanded for verification, causing no prejudice to the Revenue.

8.3 We therefore find no infirmity in the order of the Ld. CIT(A). The appeal of the Revenue is dismissed.

9. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 20/01/2026

Sd/-

**ललित कुमार  
(LALIET KUMAR)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

Sd/-

**कृणवन्त सहाय  
(KRINWANT SAHAY)**

**लेखा सदस्य/ ACCOUNTANT MEMBER**

**AG**

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar