

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.4055/Del/2024  
(Assessment Year:2017-18)**

DCIT, Circle-4(2) Room No. 384, C.R. Building, IP Estate, New Delhi – 110002	Vs.	Continental Construction Limited, 28-29, Continental House, Nehru Place, New Delhi – 110019
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAACC2309R		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing	27.01.2026
Date of Pronouncement	30.01.2026

**ORDER**

**PER ANUBHAV SHARMA, JM:**

This appeal is preferred by the Revenue against the order dated 04.07.2024 of the Ld. National Faceless Appeal Centre (NFAC) Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’)

in DIN & Order No : ITBA/NFAC/S/250/2024-25/1066411733(1) arising out of the order dated 29.03.2022 u/s 147r.w.s144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the National Faceless Assessment Centre, Delhi for AY: 2017-18.

2. The assessee did not file return of income for A.Y. 2017-18, on the basis of verification of TDS return and other documents, the notice u/s 148 was issued to the assessee. On perusal of 26AS, it was noticed that the assessee received interest income of Rs.83,55,735/- and purchased time deposit amounting to Rs.5,55,75,080/- during FY: 2016-17. Assessee neither filed return nor complied to the instruction made vide Notice U/s 142(1) dated 23.11.2021, 24.12.2021 & 23.01.2022. The Assessing Officer passed order U/s 147/144 on 04.07.2022 determining total income at Rs.6,39,30,815/-.

3. The Ld. CIT(A) has allowed the ground of the assessee on the issue of unexplained investment u/s 69 of the Income Tax Act, 1961 of Rs.5,55,75,080/-. The relevant para of Ld. CIT(A)'s order is as under:

*“I find that the appellant company when it was doing active business, had to give bank guarantees to H.P. Electricity Board, and other Authorities as performance securities and the appellant company made fixed deposits for securing bank guarantees in State Bank of India, UCO Bank and SBI Exim bank. These deposits were renewed from time to time and some were closed as and when required and guarantee was released. It is seen that on 24.10.2016 and 25.10.2016 seven such deposits came for closure in UCO Bank and six deposits were made 25.10.2016. One such deposit was for Rs 2725080. I, therefore, find that the appellant has not made any fresh investment in UCO Bank but a reinvestment of an old FD. It is also seen that the appellant Company maintains current account No 10590200001029 with bank of Baroda, Nehru Place which has flexi facility in the sense that if and when funds flow in to the account, some amount is set aside in auto sweep. This is considered to be a fixed deposit for a period till it is called for and interest is paid on this amount set aside. During the relevant year, it is also seen that some such auto sweeps were done by Bank of Baroda and these transactions were reported as investments in Form 26S. It is also seen that the appellant company was defunct and it had no inflow*

*of funds from any sources. Therefore, I am of the considered view that addition of the renewed fixed deposits Rs.5,55,75,080/- as unexplained investment u/s 69 of the Act is not sustainable and is directed to be deleted. The appeal on thus ground is thus allowed.”*

4. Ld. DR has submitted that the decision of Ld. CIT(A) is not acceptable on merits as the assessment was finalized u/s 147 r.w.s. 144 of the Act. During the assessment proceedings, assessee has not cooperated or responded to any notices issued. Assessment was completed ex-parte. Therefore, documents or evidences submitted before the Ld.CIT(A) are additional evidences and those evidences cannot be accepted without giving an opportunity to the AO to verify the same under Rule 46A of the IT Rules and reliance was placed on the decision of Hon’ble Delhi High Court in the case of Manish Build Well Pvt. Ltd. Vs. CIT (2011) 245 CTR 397 (Delhi).

5. However, after taking into consideration the facts and circumstances of the case it comes up that although the assessment was ex-parte. However, at First Appellate stage it was pointed out that appellant had responded to the Assessing Officer submitting that there are moving an application to Commissioner to condone the delay as the appellant was prevented from

reasonable cause to file the return, however, Assessing Officer did not accept submissions and the assessment was completed u/s 144 of the Act. The Ld. CIT(A) while giving benefit with regard to the issue of Assessing Officer treating the renewal of existing deposits as unexplained investment has taken into account admitted fact that there was no fresh investment but only reinvestment of old FD which were reflected in Form 26AS and thus, certainly, invocation of Section 69 of the Act was not sustainable. Therefore, there was no question of admission of additional evidences or violation of Rule 46A. The impugned order needs no interference. The grounds as raised have no substance. **The appeal of the revenue is dismissed.**

Order pronounced in the open court on 30.01.2026

Sd/-  
(Manish Agarwal)  
ACCOUNTANT MEMBER

Sd/-  
(Anubhav Sharma)  
JUDICIAL MEMBER

Dated 30.01.2026  
Rohit, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI