

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'D' BENCH, KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

ITA No.: 1503/KOL/2025

Assessment Year: 2022-23

Sanowar Ali Khan	Vs.	ITO, Ward-25(1), Kolkata
(Appellant)		(Respondent)
PAN: DSQPK0325F		

Appearances:

Assessee represented by : Rajesh Singh, AR.

Department represented by : S.B. Chakraborty, Sr. DR.

Date of concluding the hearing : 26-November-2025

Date of pronouncing the order : 28-January-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2022-23 dated 30.10.2024. The assessee sought adjournment which was rejected as there was no justification for the same.

1.1. The Registry has informed that the appeal is barred by limitation by 192 days. The assessee has filed a petition for condonation of delay explaining the reasons that the assessee was not in a position to take note of the date of hearing stated to be fixed on 11.09.2024, 19.09.2024 & 07.10.2024. Even otherwise, there was no notice issued in conformity to the provision of section 282 of the Act in respect of service of notice and as the Ld. CIT(A) himself had noted that the first date of hearing was fixed on 11.09.2024, secondly on 19.09.2024 and lastly on



07.10.2024, he proceeded very hurriedly and passed order u/s 250 of the Act without giving serving notice in terms of provision of section 282 of the Act and the assessee came to know that the assessment was completed *ex-parte* only on the basis of the order passed u/s 271AAC(1) of the Act dated 30.06.2025, and also that the *ex parte* order was passed u/s 250 of the Act by the Ld. CIT(A) relating to the quantum matter, it is so stated in the affidavit filed. The assessee has pleaded that there had been no wilful or intentional default in the matter and accordingly has prayed that the delay of 193 days in submission of appeal before the Tribunal may be condoned. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. For that the Orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.

2. For that the Ld. CIT, NFAC:

(a) erred in passing an ex parte Order and consequently dismissing the appeal of the appellant on alleged grounds.

(b) did not provide sufficient and reasonable opportunity to the appellant to explain and dwell upon the issues which were raised in Grounds of Appeal for adjudication of the same.

(c) having found non-compliance by the appellant to the Notices issued u/s 250 of the Income Tax Act, 1961 ought to have served the same by Post or Courier Services or other means of Services as provided u/s 282 of the Act.

(d) erred in dismissing the appeal by not adjudicating the grounds taken by the appellant.

(e) erred in confirming the action of the A.O. in respect to addition of Rs.1,72,85,965/-.



(f) erred in not dwelling upon the issue raised by the appellant relating to provision of Sec. 142(1) r.w.s. 142(2) r.w.s. 142(3) of the Act and the failure of the A.O. to confront the appellant with the materials so gathered on the basis of the inquiry conducted.

(g) erred in confirming action of the A.O. in not properly dwelling upon the Ledger account of Sri Jeetmal Choraria in respect of trading of Textile Cloth and consequently confirming the addition of Rs. 1,25,91,331/- on alleged grounds.

(h) erred in confirming the action of the A.O. in holding that the expenses claimed under the head 'Wages' amounting to Rs.44,74,610/- remained unexplained.

(i) erred in confirming the action of the A.O. towards disallowance of Rs.2,20,024/- on alleged grounds.

3. For that the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds.”

3. Brief facts of the case are that the assessee had filed his return of income showing total income of ₹7,68,650/-. The case was selected for scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS') and notice u/s 143(2) was issued on 02.06.2023. As per the information available with the Department, the assessee had made financial transactions with Sh. Jeetmal Choraria (ACOPC2124K) and there were other financial transactions which needed further clarification. In response to the notices issued, the assessee submitted that he ran a Readymade Garments manufacturing business in the name and style of M/s. K. Vishal Garments. The reply submitted by the assessee was duly perused and considered; however, the same was not found tenable. The assessee also did not furnish the nature and purpose of the transactions and also did not submit copy of invoices, Purchase & Sales register, e-way bill, or any other relevant document which could prove that the goods had been delivered to the party. Therefore, the Assessing Officer (hereinafter referred to as Ld. 'AO') concluded that the assessee had grossly failed to furnish any reply/submissions/corroborative

documentary evidence for the financial transactions held between the assessee and Sh. Jeetmal Choraria amounting to ₹1,25,91,331/- and added the same to the total income of the assessee u/s 69A of the Act. On perusal of the records, it was also found that the assessee had debited expenses for wages to the tune of ₹44,74,610/- and salary to the tune of ₹9,00,000/- and during the course of assessment proceedings, the assessee was asked to furnish the details and corroborative documents which could prove that the wages & salary were paid for the actual work done. The assessee merely submitted the list of workers, without any corroborative evidence of payment made to them. The assessee did not furnish copy of Form No. 16 for the TDS deduction made by him. Therefore, the Ld. AO added a sum of ₹46,94,634/- (₹44,74,610 + ₹9,00,000 - ₹6,79,976) as Unexplained Expenditure u/s 69C of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, regarding Ground Nos. 3 to 8, has discussed the provisions of sections 68 and 69A of the Act and relying upon the judicial pronouncements rendered in (i) Sreelekha Banerjee v CIT (1963) 49 1TR 112 (SC), (ii) Kale Khan Mohammad Hanif v CIT [1963] 50 ITR 1 (SC), (iii) Roshan Di Hatti v CIT [1977] 107 ITR 938 (SC), (iv) Sumati Dayal v. CIT [1995] 80 Taxman 89 (SC) and (v) CIT v. P. Mohanakala [2007] 161 Taxman 169 (SC), has held as under:

“8.8 In the present case it is seen that no satisfactory explanation was provided by the assessee during the assessment proceedings as per the findings of the A.O. in the assessment order. Furthermore, even in the present appellate proceedings there has not been any compliance to any of the notices issued on 11.09.2024, 19.09.2024 and 07.10.2024. The contentions of the appellant raised in the statement of facts or the grounds of appeal are not backed by any documentary evidence and hence do not merit acceptance. It is for the appellant to submit a detailed explanation along with proper evidence to support the grounds of appeal and to

contradict the findings of the A.O in the assessment order, which he has failed to do. No evidence has been submitted to prove the genuineness and source of the financial transactions. Accordingly, I am left with no option but to conclude that the appellant has failed to discharge the burden of proof cast u/s 68 or 69A of the Act. Accordingly, the addition of Rs. 1,25,91,331 /- is upheld and the Grounds of Appeal are Not Allowed.”

3.1 The Ld. CIT(A) regarding Ground Nos. 9 to 15 for the disallowance of expenses has held as under:

“9.2 In the present appellate proceedings there has not been any compliance to any of the notices issued on 11.09.2024, 19.09.2024 and 07.10.2024. The contentions of the appellant raised in the statement of facts or the grounds of appeal are not backed by any documentary evidence and hence do not merit acceptance. It is for the appellant to submit a detailed explanation along with proper evidence to support the grounds of appeal and to contradict the findings of the A.O. in the assessment order, which he has failed to do. No evidence has been submitted to prove the genuineness of the expenditure incurred. Accordingly, I am left with no option but to conclude that the appellant has failed to discharge the burden of proof cast u/s 69 of the Act. Accordingly, the addition of Rs. 46,94,634/- is upheld and the Grounds of Appeal are Not Allowed”

3.2 The Ld. CIT(A) therefore, dismissed the appeal of the assessee by holding as under:

“10. In view of the discussion in the preceding paragraphs, I am constrained to concur with the AO's findings of fact and decisions thereof, more particularly in the absence of any meaningful and worthwhile submissions/documentations even during the instant appellate proceedings, to counter effectively the position adopted by the AO on the concerned issues and reduced in writing in the assessment order. It is trite that an appellate authority is essentially called upon to balance the two sides of an argument presented before him as held in Nirmal Singh and Others of the Hon'ble Punjab and Haryana High Court [Cr No. 3791 of 2013 (O&M) dated 01.05.2014] and in the absence of any reasonable, cogent and valid arguments/contentions advanced by the appellant in the instant appeal to counter the AO's decision as contained in the assessment order, as mentioned earlier, the addition made by the AO is sustained.”

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.



5. Rival contentions were heard and the submissions made have been examined. It was submitted that proper representation could not be made before the Ld. AO and also before the Ld. CIT(A) and the appeal is decided ex parte. It was requested that the assessee has sufficient evidence and the matter may be remanded for making proper submission. After examining the facts of the case and the law, and as the submission were not properly appreciated, we deem it appropriate to provide one more opportunity to the assessee and to set aside the order of the Ld. CIT(A) and restore the appeal to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merit by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 28th January, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 28.01.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Sanowar Ali Khan, Y-2/16, Mallick Para Lane, Metiabruz, Kolkata, West Bengal, 700044.**
2. **ITO, Ward 25(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata