

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1823 & 1826/PUN/2024
निर्धारण वर्ष / Assessment Years : 2015-16 & 2016-17

Natharam Panaji Choudhary, S. No. 15/2, Gulve Vasti, Indriyani Nagar, Indrayaninagar S.O., Pune City, Pune-411026 PAN : AEZPC2060D	Vs.	Income Tax Officer, Ward – 8(1), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Bharat Kumar (Virtually)
Department by :	Shri Amol Khairnar
Date of hearing :	17-12-2025
Date of Pronouncement :	21-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The above two appeals filed by the assessee are directed against the separate orders both dated 11-06-2024 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [**“CIT(A)/NFAC”**] pertaining to Assessment Years (**“AYs”**) 2015-16 and 2016-17. Since identical issues are involved in both the appeals, for the sake of convenience, these appeals were heard together and are being disposed of by this common order.

ITA No. 1823/PUN/2024, AY 2015-16

2. Briefly stated, the facts of the case are that the assessee is an individual. For AY 2015-16, the assessee filed his return of income on 31.03.2017 declaring total income of Rs.2,70,000/-. Based on the information on search action u/s 132 of the Income Tax Act, 1961 (**the “Act”**) carried out in the case of M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd., the Ld. Assessing Officer (**“AO”**) found that the assessee has made huge cash deposits in the said Society during the relevant AY 2015-16. However, the said deposits are not disclosed by the assessee in his return of income and therefore the source of such deposits remained unexplained and undisclosed. The case of the assessee was thus reopened u/s 147 of the Act by issue of notice u/s 148 of the Act with the reasons to believe that the income to the extent of

Rs.60,76,654/- chargeable to tax has escaped assessment for AY 2015-16. Statutory notice(s) u/s 142(1) of the Act were issued and duly served upon the assessee from time to time. Since, the assessee failed to comply the notice(s) issued by the Ld. AO, he proceeded to complete the assessment u/s 147 r.w.s. 144 r.w.s. 144B of the Act vide his order dated 19.03.2022 thereby making an addition of Rs.60,76,654/- as unexplained money u/s 69A of the Act.

3. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A)/NFAC challenging the above addition made by the Ld. AO. The Ld. CIT(A)/NFAC dismissed the appeal of the assessee and sustained the addition made by the Ld. AO by observing as under :

“4.3 I have gone through the grounds of appeal, statement of facts, assessment order and the submissions of the appellant. Appellant has not made any submission as to how the AO is wrong in passing assessment order. Since, the appellant could not submit any material evidences/additional evidences during appeal proceedings substantiating his grounds which could not be produced before the assessing officer, except the documents produced before AO earlier, it clear that the appellant has no strong evidences on his to substantiate his grounds of appeal. Further, it is held by the AO in the Assessment order that the onus is on the assessee to establish the genuineness of the transactions, which in the instant case the assessee has not discharged.

4.3.1 Section 147 of the Act lays down that the reopening the assessment can be done by the AO if he has ‘reason to believe’ that the income has escaped assessment. Escapement of income chargeable to tax can be due to non filing of return of income by the appellant despite having taxable income, receipt of information from other agencies, or failure on part of the AO during the initial assessment proceedings to account for a portion of the income or allowing of excess loss or depreciation etc. On such occasions, the assessment can be reopened. Explanation 2 to Section 147 enlists other conditions under which the section is applicable (deeming provision); which is when the income has been assessed but there has been under-assessment or the income has been assessed at too low a rate or excessive relief has been provided and/or excessive loss, depreciation allowance or any other allowance has been computed under the provisions of the Act.

4.3.2 Action under section 147 is permissible even if the Assessing officer gathers his reasons to believe from the very same record as has been the subject matter of the completed assessment proceedings. There might indeed be a presumption that the assessment proceedings have been regularly conducted, but there can be no presumption that even when the order of assessment is silent, all possible angles and aspects of a controversy have been examined and determined by the Assessing Officer. It is trite law that a matter in issue can be validly determined only upon application of mind by the authority determining the same. Application of mind is, in turn, best demonstrated by disclosure of mind, which is best done by giving reasons for the view which the authority is taking. In cases where the order passed by a statutory authority is silent as to the reasons for the conclusion it has drawn, it can well be said that the authority has not applied his mind to the issue before it, nor formed any opinion. The principle that a mere change of opinion cannot be a basis for reopening a completed assessment would be applicable to only to situations where Assessing Officer has applied his mind and taken a conscious decision on a particular matter in issue. It will have no application where the order of assessment does not address itself to the aspect

which is the basis for reopening of the assessment. Consolidated Photo & Finvest Ltd vs Asst CIT .151 Taxman 41 (Delhi).

4.3.3 When an income liable to tax has escaped assessment in the original assessment proceedings due to oversight and inadvertence or a mistake committed by the original Assessing Officer, subsequently, while verifying the records Assessing Officer can start escapement assessment proceedings. Further, there is a legal proposition accepted by various Courts that reassessment proceeding is permissible even if the information is obtained after proper investigation from the materials on record or from any enquiry or research into facts or law. There is a plethora of judgment that such information need not be from external source vide CIT and anr. vs. Rinku Chakraborty 56 DTR 227 (Kar) and Kalyanji Mauji and Company vs. CIT 102 ITR 287 (SC). It is also pertinent to mention that for reopening of completed assessment u/s.148, tangible material need not be from outside the return of income. It can be obtained from the return of income or evidences on record itself. The reference may be had of ACIT vs. Kanga & Company (2010) – TIOI 464 ITAT Mumbai. It is also relevant to mention that information obtained in assessment proceedings of subsequent year, can also be utilized for reopening of the completing assessment refer Raymond Woolens Mills Ltd. vs. ITO and Other 236 ITR 34 (SC) and Revathy C.P. Equipment Ltd. vs. DCIT AND ors. 241 ITR 856 (Mad).

4.3.4 In the interest of natural justice, the Assessing officer has given several opportunities of hearing have been provided to the appellant to submit explanation / evidence. In the present proceedings also, the appellant has not filed any evidence for the nature and sources of the cash deposits made during the financial year under consideration. If the assessee fails to prove or rebut with cogent evidence against such facts and findings, no interference is required with assessment order.

4.3.5 In view of the above discussion, it is held that the AO correctly held that the assessee failed to discharge the onus vested on him by not filing necessary explanation of source of cash deposited with sufficient documentary evidence. Therefore, the additions made by the AO are confirmed u/s. 69A of the Act as the source of which remain unexplained and unsubstantiated.

4.3.6 The AO rightly concluded that a prudent businessman, having multiple accounts, transacting in huge volume of cash never felt the need to maintain books of accounts. When such huge volumes of transactions were taken place, without maintaining the books of accounts are not possible to a human to remember the transactions. Having being put to the test of fact finding, it is observed that the transactions have failed the test, more so when read with the test of probability and human conduct, so essential, to arrive at facts. In the case of DCIT Vs Smt. Phoolwati Devi (2009) 314 ITR (AT) 1 (Delhi) the Hon'ble judges have observed at page 9 that "In our opinion, despite the documentation supporting the claim of the assessee superficially, the evidence cannot be accepted in view of the surrounding circumstances and human probabilities" Taking a view of the matter, the assessee's claim that the TDS renders the transactions genuine is rejected as being devoid of merit in the light of the surrounding circumstances.

4.3.7 Further, considering the tax evasion in the instant case, it is pertinent to refer to ratio of the decision of the Hon'ble Supreme Court in case of Rajendran Chingaravelu Vs. R.K. Mishra (320 ITR 1), in which the Hon'ble Apex Court noted with grave concern the rampant circulation of unaccounted money destroying the economy of our country. Further, the ratio of the decision of the Hon'ble Supreme Court in the case of Mc Dowell Vs CTO (154 ITR 148) is also relied upon. In this landmark decision, the Hon'ble Apex Court noted with concern the colourable devices of tax planning.

4.3.8 Considering the gamut of issues dealt with in the assessment order with which the undersigned concurs, the decision of the assessing officer is upheld and ground No. 1 raised in this appeal is dismissed."

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal :

- “1. *On the facts and circumstances of the case in Law, Ld. CIT (A) erred in confirming reopening u/s 148 of the Income Tax Act, 1961, which is bad in Law.*
2. *On the facts and circumstances of the case in Law, Ld. CIT (A) erred in confirming addition u/s 69A of Rs. 60,76,654/-.*
3. *The assessee craves leave to add, alter or amend the existing grounds of appeal on or before the date of hearing.”*

5. The assessee has also raised the additional grounds of appeal which reads as under :

- “1. *On the facts and circumstances of the case in Law, Ld. The CIT(A) ought to have held that the reopening was invalid, as the proper legal provision applicable to the facts of the case was Section 153C, not Section 148.*

We are reliance place of decision on following decision.

- a. *Sejal Jewellery-[2025] 171 taxmann.com 846 (Bombay)*
- b. *Shyam Sunder Khandelwal- [2024] 161 taxmann.com 255 (Rajasthan)*
- c. *VSI. Mining Company (P.) Ltd- [2024] 167 taxmann.com 373 (Karnataka)*
2. *It is prayed that the binding precedent set by the Honorable Pune Tribunal in the identical case of Vijaykumar Mangilalji Chordiya (ITA No. 1075/PUN/2024). In that decision, involving information derived from the search on M/s. Shri Renuka Mata Multistate Credit Society Ltd., the Tribunal held that the correct legal provision was Section 153C, not Section 148. This decision is directly applicable to the present case.*
3. *The Appellant may modify/delete/alter any grounds of appeal at any state of appeal.”*

6. The Ld. AR, at the outset, submitted that the Co-ordinate Bench of the Pune Tribunal in assessee’s own case for AY 2017-18 involving the similar set of facts has set aside the matter including both the legal grounds raised by the assessee as well as other grounds on merits of the case to the file of the Ld. CIT((A)/NFAC for necessary adjudication in accordance with law after affording reasonable opportunity of hearing to the assessee. He accordingly submitted that the present appeal may also be set aside to the file of the Ld. CIT(A)/NFAC for adjudication afresh on legal issue raised by the assessee as well as on merits of the case.

7. The Ld. DR on the other hand, relied on the order of the Ld. CIT(A)/NFAC but had no objection to the above request of the Ld. AR if the matter is set aside to the file of the Ld. CIT(A)/NFAC.

8. We have heard the Ld. Representatives of the parties and perused the material available on record. We find that the Co-ordinate Bench of the Pune Tribunal in assessee's own case, Natharam Panaji Choudhary Vs. ITO in ITA No. 1825/PUN/2024 for AY 2017-18 involving the identical set of facts as that of the present appeal and without dwelling into the merits of the case, vide its order dated 07.04.2025, has restored the matter back to the file of the Ld. CIT(A)/NFAC for necessary adjudication on legal issue challenging the validity of reopening proceedings and also re-adjudicate the issue on merits considering the submissions of the assessee as per fact and law. The relevant observations and findings of the Tribunal are as under :

"7. We have heard the rival contentions and perused the record placed before us. We find that the assessee has raised legal issue for the first time and challenged the validity of notice issued u/s. 148 of the Act. The submissions made by the Ld. Counsel for the assessee indicates that the reasons to believe the Ld. Assessing Officer has referred to the transactions of Rs.2,73,70,303/- made by the assessee with M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. but after issuing notice u/s. 148 of the Act and then analyzing the bank statement during the course of reassessment proceedings, the Ld. Assessing Officer observed that the assessee had deposited the used amount of cash amounting to Rs.18,79,514/-. This indicates about the variation in quantum of income alleged to have escaped. Based on this fact, the assessee has raised legal issue but since the issue has been raised for the first time before this Tribunal, we deem it proper to restore the legal issue challenging the validity of reopening and validity of notice issued u/s. 148 of the Act to the file of Ld. CIT(A) for necessary adjudication in accordance with law after providing reasonable opportunity of hearing to the assessee. Since, the legal issue has been restored to the file of Ld. CIT(A) dealing with the merits of the case would be pre-mature and merely academic in nature. Even on merits of the case also, the Ld. CIT(A) can re-adjudicate the issue considering the submissions of the assessee and also taking note of nature of transactions if any entered into by the assessee with M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. Effective grounds of appeal raised by the assessee are allowed for statistical purposes."

9. In view of the decision (supra) of the Co-ordinate Bench of the Tribunal for AY 2017-18 and the fact that the issues involved in the present appeal for AY 2015-16 are identical to the issues involved in AY 2017-18 and in the absence of any contrary material brought on record by the Revenue, we deem it fit to set aside the impugned order of the Ld. CIT(A)/NFAC and restore the matter back to his file to adjudicate the issues afresh including the legal issue raised by the assessee. The effective grounds of appeal raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

ITA No. 1826/PUN/2024, AY 2016-17

11. Both the sides are unanimous in stating that the facts and the grounds of appeal and additional grounds of appeal in ITA No. 1826/PUN/2024 are identical to the grounds and additional grounds raised in ITA No. 1823/PUN/2024 except the variance in amounts. Thus, in view of the fact that the issue(s) raised in both the appeals are identical and are arising from same set of facts, the finding given by us while adjudicating the appeal in ITA No. 1823/PUN/2024 would *mutatis mutandis* apply to the appeal in ITA No. 1826/PUN/2024 as well. Accordingly, the grounds of appeal raised by the assessee in ITA No. 1826/PUN/2024 are allowed for statistical purposes in the same terms.

12. To sum up, both the appeals of the assessee in ITA Nos. 1823 & 1826/PUN/2024 are allowed for statistical purposes.

Order pronounced in the open court on 21st January, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21st January, 2026.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune