

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW 'B' BENCH, LUCKNOW  
BEFORE SH. KUL BHARAT, VICE PRESIDENT  
AND  
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.668/LKW/2025

A.Y. 2018-19

Karunesh Kumar Shukla, M-57, Sanjay Gandhi Puram, Faizabad Road, Lucknow	vs.	Income Tax officer-1(1), Lucknow-New
<b>PAN: AJTPS0620E</b>		
(Appellant)		(Respondent)

Assessee by:	Sh. Samrat Chandra, C.A.
Revenue by:	Sh. Koushendra Tiwari, CIT DR
Date of hearing:	27.11.2025
Date of pronouncement:	30.01.2026

**ORDER**

**PER NIKHIL CHOUDHARY, A.M.:**

This is an appeal filed by the assessee against the order of the Id. CIT(A), NFAC on 28.07.2025 wherein the Id. CIT(A) has dismissed the appeal of the assessee in limine for want of prosecution. The grounds of appeal are as under:-

*"1. Because on the facts and in the circumstance of the case, the order of Ld. CIT(Appeals) has been passed in absolute violation of the principles of Natural Justice, without providing adequate opportunity of being heard and therefore deserves to be declared a nullity.*

*2. Because without considering the facts and in the circumstances of the case Ld. CIT(A) has erred in law and in facts in adding an amount of Rs. 6,77,00,000/- as undisclosed Capital Gain under the head Short Term Capital gain when from the deeds it is clear that the share of sale consideration assessable in the hands of the assessee is Rs. 3,38,50,000/- (Total of Rs. 2,41,00,000.00 and Rs. 97,50,000.00).*

*3. Because without considering the facts and circumstances of the case, the Ld. CIT(A) has erred in law and in facts in adding an amount of Rs. 85,00,000/- as unexplained investment u/s 69 of The Income Tax Act, 1961.*

*4. Because without considering the facts and circumstances of the case, the CIT(A) has erred in law and in facts in adding an amount of Rs. 29,91,000/- as unexplained cash u/s 69A of The Income Tax Act, 1961 when the same relates to sales and realization from debtors and already offered for taxation.*

*5. The appellant craves for leave to add, modify, amend or delete any other and further grounds of appeal with permission."*

2. The facts of the case are that the assessee did not file a return of income for the A.Y. 2018-19. Upon receipt of information that the assessee had received an amount of Rs. 4,36,00,000/- on sale of immovable property, made time deposits of Rs. 85 Lacs, made cash deposits of Rs. 29,91,000/- and earned interest of Rs. 4,17,667/-, the ld. AO initiated proceedings for reassessment by issue of notice under section 148 after following the prescribed procedure. The ld. AO records that several opportunities were given to the assessee to make compliance before the ld. AO but even though the notices were also sent by speed post and email, no compliance was made by the assessee. Thereafter, the ld. AO proceeded to complete the assessment on a best judgment basis according to the provisions of section 144 and after considering the return filed by the assessee under section 148 on 23.04.2022. The ld. AO thereafter, made an addition of Rs. 6,77,00,000/- on account of sale of investment in immovable properties, an addition of Rs. 85,00,000/- on account of unexplained investment in time deposits and Rs. 29,91,000/- as unexplained money under section 69A.

3. Aggrieved by the said assessment order, the assessee filed an appeal before the NFAC. However, the ld. CIT(A) records that he issued four notices to the assessee but the assessee did not respond to any of them. In view of the same, the ld. CIT(A) held that the assessee was not interested in pursuing the appeal and thereafter citing the judgment of Hon'ble Supreme Court in the case CIT vs. B.N. Bhattacharjee and Ors (1979) 10 CTR 354 (SC), the Hon'ble Madhya Pradesh High Court in the case of Estate Of Late Tukojirao Holkar vs Commissioner Of Wealth-Tax (1979) 223 ITR 450 (MP) and the ITAT Delhi Bench in the case of CIT vs. Multiplan India Pvt. Ltd., (1991) 38 ITD 320 (Del), the ld. CIT(A) dismissed the appeal of the assessee in limine.

4. The assessee is aggrieved against these orders and has accordingly come in appeal before us. Sh. Samrat Chandra, C.A. (hereinafter referred to as the ld. AR) submitted that the order of the ld. CIT(A) had been passed in violation of the

principles of natural justice without providing adequate opportunity of being heard. It was submitted that it was clear from the sale deeds that the share of sale consideration assessable in the hands of the assessee was only Rs. 3,38,50,000/- and not Rs. 6,77,00,000/-. It was submitted that this information was before the lower authorities and therefore, they had erred in law in making this addition. Furthermore, it was submitted that the Id. CIT(A) had erred in treating a sum of Rs.29,91,000/- as unexplained cash under section 69A because the same related to transactions and realization from debtors and had already been offered by the assessee for taxation. Further, it was submitted that there was an error in holding that sum of Rs. 85,00,000/- was unexplained investment, when he had himself recorded the fact that the assessee had received money for the sale of immovable property. The Id. AR further submitted that the assessee had made a fresh claim before the Id. CIT(A) pointing out that the assessee had not claimed deduction in respect of his share of construction in the new house property under section 54F of the Income Tax Act and the same was liable to be allowed. However, the Id. CIT(A) had not considered any of these issues and had dismissed the case of the assessee without assigning any reasons thereof. Accordingly, it was prayed that the matter should be restored back to the file of the lower authorities so that the assessee may present the facts before them and thereafter a decision may be taken in accordance with law.

5. On the other hand, Sh. Koushlendra Tiwari, CIT DR (hereinafter referred to as to the Id. DR) argued that the story of the assessee's case was that there was no compliance either at the level of the Id. AO or at the level of the Id. CIT(A). Therefore, there was no mistake in the best judgment assessment conducted by the Id. AO and in the dismissal of the appeal by the Id. CIT(A). He, therefore, prayed that the orders may be confirmed.

6. We have duly considered the facts and circumstances of the case. While it is undeniable that the assessee has not made compliance before the Id. AO and the Id. CIT(A), we observe that the assessee had raised certain legal issues in his appeal that had been filed before the Id. CIT(A). In the grounds of appeal, it had clearly

been stated that the share of the assessee in the said immovable property was only one half of total value and that the assessee was eligible for deduction under section 54F of the Income Tax Act, 1961. It has also been claimed that the addition of Rs. 29,91,000/- had been made on an amount that had already been offered to tax by the assessee. We are of the opinion that even if the Id. CIT(A) were to reject the appeal of the assessee on account of non-compliance, he was still obliged to go into the facts of the claim, as the assessee had not withdrawn his appeal. His failure to decide the issues raised in the grounds of appeal therefore renders the order to be erroneous. Accordingly, we deem it appropriate to restore the matter back to the file of the lower authorities for examination of the materials to be furnished by the assessee and to thereafter take a decision in accordance with law. Considering the recent CBDT decision, which enables Id. CIT(A) to remand back matters which have been decided under section 144, we deem it appropriate to restore this matter back to the file of the Id. AO for a fresh decision in accordance with law. We also direct the assessee to produce the necessary materials in support of its submissions before the Id. AO, failing which it would be presumed that the assessee had no explanation to offer in this regard and the Id. AO would be free to take such action as required by law. In view of the fact that the matter stands restored to the file of the Id. AO, the appeal of the assessee is held to be allowed for statistical purposes.

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

Order pronounced on 30.01.2026 in the Open Court.

**Sd/-**  
**[KUL BHARAT]**  
**VICE PRESIDENT**

DATED: 30/01/2026

Copy forwarded to:

1. Appellant -
2. Respondent -
3. CIT DR , ITAT,
4. CIT,
5. The CIT(A)

**Sd/-**  
**[NIKHIL CHOUDHARY]**  
**ACCOUNTANT MEMBER**

By order  
Sr. P.S.