

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM

आयकर अपील सं. / ITA No: 625/RPR/2025
(निर्धारण वर्ष Assessment Year: 2018-19)

Municipal Council Dongargarh, C/o Chief Municipal Officer, Municipal Council, Dongargarh, Rajnandgaon, Chhattisgarh, 491445	vs	ITO, Ward-1/Rajnandgaon, Income Tax Office, Raipur Naka, Rajnandgaon, Chhattisgarh, 491441
PAN: AAMFM7895D		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Nitesh Khandelwal, CA and Ms. Swati Khandelwal, CA
राजस्व की ओर से / Revenue by	:	Shri Yogesh Kumar Sharma, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	04/02/2026
घोषणा की तारीख / Date of Pronouncement	:	06/02/2026

आदेश / ORDER

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2018-19 filed by the assessee is directed against the order dated 26.08.2025 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ['CIT(A)'] passed under section 250 of the Income Tax Act, 1961 ('Act').

2. The assessee has raised following grounds of appeal: -

"1. That under the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming addition of a sum of Rs.3,57,12,724/- for the money deposited in bank holding the same to be unexplained investment in terms of section 69 read with

section 115BBE of the Income Tax Act, 1961. The addition is unjustified and need to be deleted.

- 2. That under the facts and in the circumstances of the case, the Ld.CIT(A) erred in confirming addition of a sum of Rs.42,83,870/- for the interest received from State Bank of India and Chhattisgarh State Power Distribution Company Limited in terms of section 69 read with section 115BBE of the Income Tax Act, 1961. The addition is unjustified and need to be deleted.*
- 3. The assessee craves leave to add, alter, amend or withdraw any ground or grounds of appeal before or at the time of hearing.”*

3. The relevant facts giving rise to this appeal are that the assessee, a local body, got its PAN mistakenly allotted in the status of Partnership Firm, is a non-filer of its Income Tax Return ('ITR') within prescribed time limit provided under section 139(1) of the Act. The Ld. Assessing Officer ('AO'), based on the information available with him that the assessee, a non-filer of ITR had made an investment of Rs.3,57,12,724/- in Time Deposits and had interest income of Rs.42,83,870/- during the relevant year, initiated the proceedings under section 148 of the Act after recording the reasons thereof. During the re-opened assessment proceedings, the assessee failed to ensure any compliance though many opportunities of being heard as detailed on Page No. 2 of the assessment order. Therefore, the Ld. AO concluded the assessment by taxing the investment of Rs.3,57,12,724/- in Time Deposit as un-explained investment and interest of Rs.42,83,870/- as income under the head other sources. The taxes on the assessed income of Rs.3,99,96,590/- was charged to tax under section 115BBE of the Act. Aggrieved with said assessment order, the assessee filed an appeal before the Ld. CIT(A), who dismissed the appeal as under:

Decision:

6.1.3. The Assessment Order, Grounds of Appeal, the Statement of Facts, Submission of the appellant, Remand Report, documents submitted along with Remand Report and law in this regard is considered.

6.1.4. The appellant contended that reopening was bad in law. However, information from NMS portal is a valid tangible material which clearly indicated escapement of income in the form of large time deposits and corresponding interest. The Ld.AO duly recorded reasons and obtained approval before issuing notice u/s 148. Multiple statutory notices were issued but the appellant remained non-compliant.

6.1.5. In view of judicial precedents (Raymond Woollen Mills Ltd. v. ITO [236 ITR 34 (SC)], the Supreme Court held -

1. At the stage of issuing notice u/s 147/148, the AO is only required to form a prima facie belief based on some material that income has escaped assessment.
2. The sufficiency or correctness of the material cannot be gone into at that stage.
3. The Court held: "What is required is 'reason to believe' and not the established fact of escapement of income. At the initiation stage, it is not necessary for the AO to conclusively establish that income has escaped assessment."
4. Therefore, the reopening was held to be valid, and the assessee's challenge was dismissed.

Principle Laid Down

For reopening an assessment u/s 147, existence of some tangible material giving rise to "reason to believe" is enough.

Similarly, in the case of ACIT v. Rajesh Jhaveri Stock Brokers Pvt. Ltd. [291 ITR 500 (SC)], sufficiency of reasons cannot be challenged once there was tangible material. Hence, reassessment proceedings were validly initiated.


Chief Municipal Officer
Municipal Council
Dongargarh (C.G.)

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6.1.6. The appellant had made time deposit to the tune of Rs.3,57,12,724/- and interest income received of Rs.42,83,870/- from SBI and Chhatisgarh State Owner Distribution Company limited. However, no compliances to the several notices issued have been made during the assessment proceedings. Since the appellant has neither filed any evidences with regards the sources of funds for the investment made in the form of time deposit nor any explanation or supporting documents has been furnished, therefore, sources and nature of the time deposit of Rs.3,57,12,724/-and interest received of Rs.42,83,870/- remained unexplained. Section 69 clearly mandates that where the appellant offers no explanation about nature and source of investment, the same shall be deemed to be income.

In the present case, the appellant not only failed to file ROI but also did not respond to repeated notices including show cause u/s 144. The AO was therefore justified in treating the deposits as unexplained investments and interest as taxable income. The provisions of section 115BBE also apply, prescribing higher rate of tax.

The remand report further confirms that sufficient opportunity was provided to the appellant, but there was no compliance. In absence of any contrary evidence, the addition made by AO is upheld.

Ground No. 1 is dismissed.

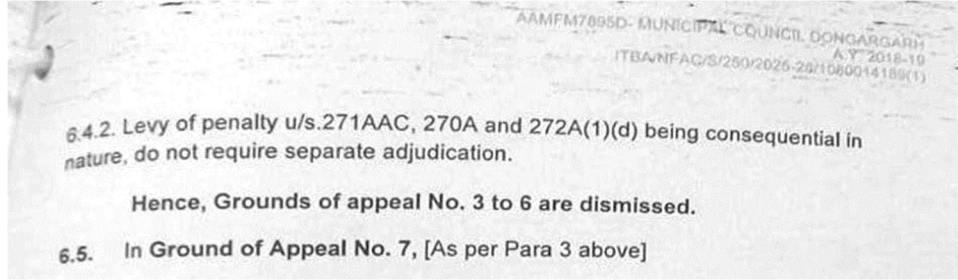
6.3. In Ground of Appeal No. 2, [As per Para 3 above]

6.3.1. I have carefully considered the facts as well as submission of the appellant and gone through the observation and findings of the AO made in the Assessment Order. On this ground I am of the opinion that the levy of interest under Section 234A, 234B and Section 234C has been held by the Supreme Court in CIT Vs. Anjum M.H. Ghaswala, to be mandatory in nature and it cannot be waived and/or reduced by the Income Tax Authorities. Accordingly, the AO is directed to charge interest u/s 234A, 234B and 234C as provided under the Act. Thus, this ground is **dismissed**.

6.4. In Ground of Appeal No. 3 to 6, [As per Para 3 above]

6.4.1. That the AO erred in initiating penalty proceedings under section 271AAC of the Income Tax Act, 1961. That the AO erred in initiating penalty proceedings under section 270A of the Income Tax Act, 1961. That the AO erred in initiating penalty proceedings under section 272A(l)(d) of the Income Tax Act, 1961.


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4. At the outset, Ms. Swati Khandelwal, CA, learned Authorized Representative of the assessee drew our attention to the fact that the Ld. AO vide orders dated 19.03.2023 and 23.03.2024 passed under section 148A(d) of the Act with the approval of the Ld. Principal Commissioner of Income Tax dropped the proceedings of AYs 2019-20 and 2020-21 respectively. The relevant part of the order dated 23.03.2024 passed under section 148A(d) of the Act for AY 2020-21 reads as under:

"5.1 Reference is further drawn on Chapter III of the Income Tax Act, 1961: "Incomes Which Do Not Form Part of Total Income". As per the provisions defined under sub-section (20) of section 10 of the Income Tax Act which reads as under:

The income of a local authority is chargeable under the head "Income from house property", "Capital Gains" or Income from Other Sources" or a business carried on by it which accrues or arises from the supply of a commodity or service being water or electricity within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area" -

For the purpose of this clause the term 'Local Authority' has been defined as under:

1. Panchayat as referred to in clause (d) of Article 243 of the Constitution; or
2. Municipality as referred to in clause (e) of Article 243P of the Constitution; or
3. Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund; or
4. Cantonment Board as defined in Section 3 of the Cantonments Act, 1924 (2 of 1924) 1924)

6. In view the discussion held in the foregoing paras and the provisions of law as laid down under section 10(20) of the Income Tax Act, the "Municipal Council, Dongargarh" being covered under the definition of a local authority, its income is treated as exempt. Therefore, this case is not found to be a fit case to be proposed for reopening under the provisions of section 148 of the Income Tax Act.

7. In view of the discussion made in above paras, the income of the assessee i.e., "Municipal Council, Dongargarh" to the extent of Rs. 1,05,52,029/- for F.Y. 2019-20 relevant to A.Y. 2020-21 is treated as exempt under section 10(20) of the Income Tax Act.. Therefore, the case of the assessee is Not found to be a fit for issuance of notice u/s 148 of the Act for A.Y. 2020-21.

Since, in this case, less than 3 years have elapsed from the end of the relevant assessment year i.e. A.Y. 2020-21, therefore, this order u/s 148A(d) of the Act is being passed after taking necessary approval from the Specified Authority under section 151(i) of the Act i.e. the Hon'ble Principal Commissioner of Income Tax-1, Raipur within limitation date 31.03.2024."

4.1 In view of orders dated 19.03.2023 and 23.03.2024 passed under section 148A(d) of the Act wherein the similar proceedings initiated in subsequent years were dropped with the approval of the Ld. Principal Commissioner of Income Tax; the Ld. AR prayed for allowing the appeal of the assessee treating it as an "Urban Local Body" as the assessee was registered as an "Urban Local Body" on 25.02.1941, whose income was eligible for exemption under section 10(20) of the Act. She further puts emphasis on the provisions of section 10(20) of the Act and the findings of the Ld. AO in subsequent years on similar set of facts. She prayed for allowing of appeal by deleting the entire assessed income.

5. On the other hand, Shri Yogesh Kumar Sharma, Ld. CIT-DR appeared in agreement with the submissions/contentions/arguments of the Ld. AR for allowing the appeal as the assessee was a local body.
6. We have heard both parties at length and have perused the materials available on record. We have taken note of the orders dated 19.03.2023 and 23.03.2024 passed under section 148A(d) of the Act with the approval of the Ld. Principal Commissioner of Income Tax dropping the proceedings of AYs 2019-20 and 2020-21 respectively. In view of the fact that when the Revenue has held that the assessee is a "Urban Local Body" eligible for exemption under section 10(20) of the Act in subsequent years, we do find merit in the submissions/contentions/arguments of the Ld. AR. We therefore, hold that the assessee is a "Urban Local Body" eligible for exemption under section 10(20) of the Act. We therefore, set aside the impugned order and delete the income assessed by the Ld. AO and upheld by the Ld. CIT(A). The assessee gets consequential relief.
7. In the result, the appeal of the assessee is **allowed as above**.

Order pronounced in the open court on 06/02/2026.

Sd/- (PARTHA SARATHI CHAUDHURY) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (AVDHESH KUMAR MISHRA) लेखा सदस्य / ACCOUNTANT MEMBER
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रायपुर / Raipur; दिनांक Dated 06/02/2026
HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

//True copy//

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur