

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 979/Chd/ 2025

निर्धारण वर्ष / Assessment Year : 2018-19

Abhimanyu Gupta C/o Tejmohan Singh, Advocate # 527, Sector 10-D, Chandigarh	बनाम	The DCIT Circle, Patiala
स्थायी लेखा सं. / PAN NO: ADVPG4335J		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri Tejmohan Singh, Advocate

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 21/01/2026

उदघोषणा की तारीख/ Date of Pronouncement : 09/02/2026

आदेश/Order

PER LALIET KUMAR, J.M:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A), NFAC, Delhi dt. 07/07/2025 pertaining to Assessment Year 2018-19.

2. In the present appeal Assessee has raised the following grounds:

1. That the Jurisdictional AO ('the JAO') is not empowered to issue notice under s. 148 of the IT Act, 1961 after the new regime of faceless assessment has been brought into force by the amendment made under s. 148 of the Act. 1961 which has so been held by the Jurisdictional High Court of Punjab and Haryana in the case of JASJIT SINGH V/S UNION OF INDIA AND OTHERS reported in[2024] 165 taxmann.com 114 (Punjab & Haryana) [29-07-2024] and as such the re-assessment order passed and upheld by the Commissioner of Income Tax(Appeals) in pursuance of an invalid notice dated 31.03.2022 is illegal, arbitrary and unjustified.

2. That the learned Commissioner of Income Tax (Appeals) has erred in upholding initiation of proceedings under section 147/148A of the Act and framing the assessment under section 147 rws 144 read with section 144B of the Act without satisfying the statutory pre-conditions required for initiation of proceedings and upholding of assessment is illegal, arbitrary and unjustified.

3. That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that there was no tangible material on record that income of the appellant had escaped assessment which is based only on borrowed information that also extracted from some computers of third persons and in view thereof the proceedings initiated are illegal, untenable and therefore unsustainable.

4. That initiation of proceedings was mechanical and without any application of mind much less independent application of mind, therefore the notice issued w/s 148 of the Act was an invalid notice and assumption under section 147 of the Act was without jurisdiction.

5. That the Ld. Commissioner of Income Tax (Appeals) has erred in law in upholding the initiation of proceedings under section 148 of the Act as against Section 153C as the evidence being relied upon was found from the premises of the searched person and as such upholding of the issuance of notice under section 148 as against Section 153C is illegal, arbitrary and unjustified.

6. Without prejudice to the above, the Ld. Commissioner of Income Tax (Appeals) has further erred both in law and on facts in upholding the addition of Rs.50,00,000/- representing alleged unexplained cash paid in lieu of purchase of property from M/s Homeland Heights Group under section 69 of the Act which is arbitrary and unjustified.

7. That the Ld. Commissioner of Income Tax has erred in brushing aside the explanations given alongwith evidence that no cash was ever given while purchasing the property which is arbitrary and unjustified.

8. That the Ld. Commissioner of Income Tax has erred in upholding the addition only the basis of some digital information extracted from the computers of third parties which cannot be made the basis to burden the assessee with tax liability and as such the addition made is arbitrary and unjustified.

9. That while upholding the above addition, the learned Commissioner of Income Tax (Appeals) has failed to appreciate the factual substratum of the case, statutory provisions of law and as such, addition so made is highly misconceived, totally arbitrary, wholly unjustified and therefore, unsustainable.

10. That the Ld. Commissioner of Income Tax (Appeals) has failed to appreciate that burden is on the revenue which burden has not been discharged before making addition under section 69 of the Act.

11. That the Ld. Commissioner of Income Tax (Appeals) has further erred in not appreciating that the addition upheld is based on the statements of third parties without providing cross examination of the persons on the basis of which the alleged addition has been made despite requesting for the same which is against the Principles of Natural Justice and as such the addition upheld is arbitrary and unjustified.

12. That the Ld. Commissioner of Income Tax (Appeals) has further erred in upholding the application of the provisions of Section 115BBE which are not attracted in the instant case and as such the order passed is arbitrary and unjustified.

13. That the Ld. Commissioner of Income Tax (Appeals) has erred in upholding the levying of interest under section 234 of the Act which is not leviable on the facts of the instant case.

13. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.

14. That the order of the Ld. Commissioner of Income Tax (Appeals) is erroneous, arbitrary, opposed to law and facts of the case and is, thus, untenable.

3. Briefly the facts of the case are that the assessee is an individual who filed his return of income for the Assessment Year 2018-19 declaring total income of Rs.6,46,83,775/-. Subsequently, proceedings were initiated under section 147 of the Income-tax Act, 1961, based on information received from the Investigation Wing pursuant to a search conducted under section 132 in the case of Homeland Group of cases.

3.1 The Assessing Officer noted that during the course of search, certain documents in the form of an excel sheet were allegedly found, indicating that the assessee had purchased Flat No. T-3/51 in the project "Homeland Heights" and had allegedly paid Rs.50,00,000/- in cash over and above the cheque/RTGS payments reflected in the registered documents.

3.2 According to the Assessing Officer, statements of certain employees of the builder recorded during search proceedings revealed a modus operandi of receipt of sale consideration partly through banking channels and partly in cash. Relying primarily upon the said excel sheet and third-party statements, the Assessing Officer concluded that the assessee had made unaccounted cash payment of Rs.50,00,000/-.

3.3 The assessee denied having made any such cash payment and repeatedly requested for complete back-end material and opportunity for effective cross-examination. Although partial material was supplied, no direct evidence such as receipt, confirmation, or admission by the assessee was brought on record.

3.4 The Assessing Officer, however, rejected the submissions of the assessee and made an addition of Rs.50,00,000/- as unexplained investment under section 69 of the Act, completing the assessment under section 147 read with section 144B of the Act.

4. Against the order of the AO the assessee went in appeal before the Ld. CIT(A), Before the Ld. CIT(A) the assessee contended that the addition was based on mere conjectures, third-party statements, and "dumb documents" seized from third parties without providing an opportunity for cross-examination. However, the Ld. CIT(A) upheld the AO's findings. The Ld. CIT(A) observed that the denial by the appellant was not supported by clinching evidence to refute the AO's findings regarding the cash component. The appellate authority concurred that the property was registered at a value paid via cheque while the cash payment of Rs. 50,00,000/- represented undisclosed income.

5. Against the order of the Ld. CIT(A) the assessee preferred an appeal before the Tribunal.

6. Before us, the Ld. AR argued that the addition is purely based on "borrowed information" extracted from the computers of third parties. The AR emphasized that no tangible material was found in the possession of the assessee and that the revenue failed to discharge its burden by not allowing cross-examination of the persons whose statements were used against the assessee, violating principles of natural justice.

6.1 A specific legal objection was also raised regarding jurisdiction. It was contended that the reassessment proceedings were initiated and completed by the Jurisdictional Assessing Officer (JAO), whereas under the Faceless Assessment Scheme, such powers vested only with the Faceless Assessing Officer (FAO). In this regard, reliance was placed on the decision of this Bench in *Vikas Jain v. ACIT*, ITA No. 838/Chd/2024.

6.2 LD. AR vehemently submitted that the issue involved is squarely covered in favour of the assessee by the decision of the Coordinate Bench of the ITAT in the case of *Shri Sadhu Ram Gupta Vs. ITO* in ITA Nos. 873 & 874/Chd/2025 dt. 12/08/2025, arising out of the very same search conducted in the case of *Homeland Group*.

6.3 It was submitted that in the case of *Shri Sadhu Ram Gupta (supra)*, the Tribunal categorically held that additions made merely on the basis of an excel sheet recovered from the premises of the builder and statements of third parties, without any independent corroborative evidence or admission by the assessee, are unsustainable in law.

6.4 The Ld. AR pointed out that the facts in the present case are identical, as the assessee has made all payments through banking channels, the registered value tallies with bank statements, and no cash was found to be paid by the assessee. It was argued that no receipt, no confirmation from the builder, and no incriminating material belonging to the assessee were found. It was therefore contended that the order of the Ld. CIT(A) deserves to be quashed and the addition deleted in toto.

7. Per contra the Ld. DR supported the orders of the lower authorities. It was submitted that the seized material and statements recorded during search clearly demonstrate receipt of cash by the builder and the assessee's name appears in the seized excel sheet. The Ld. DR contended that the assessee failed to rebut the

documentary evidence unearthed during search and therefore the addition was rightly sustained by the Ld. CIT(A).

8. We have carefully considered the rival submissions and perused the material on record. The issues before us are (i) whether the proceeding under section 148 can be initiated by the Jurisdictional Assessing Officer or not. (ii) whether the reassessment under section 147 is valid, and (iii) whether the addition under section 69 can be sustained on the basis of third-party digital material and statements.

8.1 We note that the notice under section 148 was issued by the Jurisdictional Assessing Officer and not by the National Faceless Assessment Centre through automated allocation, as mandated under section 151A read with the CBDT Notification dated 29.03.2022.

8.2 The reassessment proceedings have thus been initiated by an authority not vested with jurisdiction under the Faceless Assessment Scheme. This issue stands conclusively settled by the judgments of the Hon'ble Punjab & Haryana High Court in *Jatinder Singh Bhangu* and *Jasjit Singh* and the Hon'ble Bombay High Court in *Hexaware Technologies Ltd.*

8.3 The coordinate bench decisions in *Vikas Jain v. DCIT* and *Seth Industrial Corporation v. DCIT* also support the assessee. Respectfully following the same, we hold that the notice issued under section 148 is invalid, rendering the entire reassessment void ab initio.

9. Jurisdiction under Section 147 vis-à-vis Section 153C

9.1 It is an undisputed fact that the entire basis of reopening is material seized during search conducted in the case of a third party, namely the Homeland Group. No incriminating material was found in the possession of the assessee. At this stage, it is relevant to reproduce the findings of the coordinate bench in **Shri Sadhu Ram Gupta vs. ITO (ITA Nos. 873 & 874/CHD/2025)**, arising out of the same search action:

"Once material collected during the course of search is sought to be used against a person who is not covered under the search, the assessment order ought to have been passed under section 153C and not under section 147. Section 153C starts with a non-obstante clause and has an overriding effect over sections 147 and 148. Therefore, recourse to section 147 is legally impermissible."

9.2 Respectfully following the above binding precedent, we hold that the reassessment framed under section 147 in the present case is without jurisdiction and liable to be quashed.

10. Addition under Section 69 – Merits

10.1 Even otherwise, on merits, we find that the addition cannot be sustained. In **Shri Sadhu Ram Gupta** (supra), the Tribunal further observed:

“The only evidence alleged to be possessed by the Revenue is some digital details retrieved from the computer of a third person. The authenticity of such data will always remain doubtful without independent corroborative evidence. Presumption of truth in an admission under section 132(4) could only be drawn qua the deponent and cannot bind any third person.

...presumption of truth in an admission made u/s 132(4) could only be drawn qua the deponent. It cannot bind any third person... all information referred by the AO as well as by the CIT (Appeals) are available in the computers of third person, how their entries recorded by them could be binding upon the assessee...”.

The Tribunal further held that denial of cross-examination of such witnesses renders the addition unsustainable.

10.2 Similarly, in **Raman Seth vs. DCIT (ITA No. 966/CHD/2025)**, the coordinate bench held:

“When reassessment proceedings are founded entirely on third-party material and the assumption of jurisdiction itself is vitiated, the consequent assessment order cannot survive in law.”

10.3 In the present case also, there is no independent evidence to establish actual flow of cash from the assessee. There is no receipt, no confirmation from the builder, and no admission by the assessee. The entire consideration as per registered documents has been paid through banking channels. The addition rests solely on third-party digital entries and statements recorded behind the back of the assessee, without granting cross-examination.

10.4 Applying the same logic to the present case, the addition of Rs. 50,00,000/- is based on a list of persons found on a "loose paper" or digital records of the builder. There is no independent evidence that this cash actually flowed from the assessee. Following the precedent in *Sadhu Ram Gupta*, where the Tribunal deleted similar

additions on the ground that third-party admissions and records cannot bind an assessee without conclusive proof, we find the addition in the present case to be unsustainable. Consequently, we quash the order of the Ld. CIT(A) and direct the AO to delete the addition of Rs. 50,00,000/-.

11. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 09/02/2026

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य / JUDICIAL MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar