

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER  
AND  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 461/RPR/2025  
निर्धारण वर्ष / Assessment Year : 2017-18

Trupti Shukla  
D-42, Mahavir Sun City Lakholi Road,  
Rajnandgaon (C.G.)-491 441  
PAN: BDDPS2254P

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer-1,  
Rajnandgaon (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rakesh Dhody, CA  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 06.02.2026

घोषणा की तारीख / Date of Pronouncement : 11.02.2026

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM:**

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 28.05.2025 for the assessment year 2017-18 as per the following grounds of appeal:

“1. That the Ld. Commissioner of Income Tax (Appeals) has erred in sustaining the addition of Rs.55,24,000/- made by the Ld. Assessing Officer.

2. The Ld. Commissioner of Income Tax (Appeals) is not justified in confirming action of the Ld. Assessing Officer in applying section 69A on the cash deposited of Rs.55,24,000/- and charging the same to higher rate of tax under section 115BBE of the Act.

3. The appellant reserves the right to addition, alter or omit all or any of the grounds of appeal in the interest of justice.”

2. Brief facts in this case are that this is a case where the wife (assessee) and her husband is having a joint account in the bank. During relevant year, there was cash deposits made in the said bank account which was added by the department u/s. 69A of the Income Tax Act, 1961 (for short ‘the Act’) as unexplained money in the hands of the assessee. But the fact of the matter is that as explained by the assessee before the Department that such money deposited was by her husband in the joint account belonging jointly of the assessee and her husband. The Revenue authorities had made the addition without cross examination of husband of the assessee nor had enquired in the genuineness of the statements and

written submissions filed by the assessee and the Ld. CIT(Appeals)/NFAC had not passed the order in terms with Section 250(4) & (6) of the Act.

3. The only ground, on which, the addition was made was that husband returned income appears low in revenue vis-à-vis deposits made, and the assessee contended that solely on the basis of the returned income, the entire addition made is unjustified.

4. The Ld. Sr. DR supported the findings of the sub-ordinate authorities.

5. The Ld. Counsel for the assessee has submitted written submissions which is extracted as follows:

## I. Brief facts

1. The Appellant is a salaried school teacher with small tuition income; she does not carry on any major business activity.
2. During F.Y. 2016-17, total cash of about Rs. 52.24 lakhs (Non Demonetization Rs.32.89 Lakhs and Demonetization Rs. 19.35 Lakhs) was deposited in various bank accounts, predominantly in joint accounts held with her husband.
3. The Appellant's consistent stand before the Assessing Officer and NFAC has been:
  - a) The cash was deposited by her husband, a separate income-tax ~~Appellant~~ <sup>Assessee</sup>.
  - b) Source: his business receipts and past savings,
  - c) Joint account was used as a matter of convenience.
4. In support, the Appellant produced:
  - a) Written declaration/letter of the husband owning the deposits,
  - b) Copies of his income-tax returns,
  - c) Copies of his bank statements.
5. Original assessment u/s 143(3) dated 16-12-2019:
  - a) Limited scrutiny on "cash deposits during the year"
  - b) Total cash deposits noted: Rs. 52,24,000
  - c) Added only Rs. 19,35,000 u/s 69A (demonetisation period cash)
  - d) Balance Rs. 32,89,000 (non-demonetisation cash) not examined

6. PCIT Order u/s 263 dated 16-03-2022:

- a) AO failed to examine full Rs. 52,24,000 despite limited scrutiny
- b) Original order set aside for fresh assessment

7. Re-assessment u/s 143(3) r.w.s. 263 dated 24-03-2023:

- a) Added full Rs. 52,24,000 u/s 69A (enhancement of Rs. 32,89,000)
- b) Total income: Rs. 55,23,290

8. NFAC Order u/s 250 dated 28-05-2025:

- a) Fully sustained Rs. 52,24,000 addition

## II. Core legal issue

Whether, on these facts, cash deposited in a joint bank account during the demonetisation year, which has been owned and explained by the husband (a separate Appellant ), can be assessed as unexplained money u/s 69A in the hands of the wife, merely because she is a joint holder and spouse.

## III. Propositions of law

### A. Joint account does not create presumption of ownership

1. In law, joint holding of an account is not conclusive of beneficial ownership of all deposits.
2. Where another joint holder accepts ownership and explains the source, the burden shifts to the Department to either:
  - Assess that person, or
  - Disprove that explanation with cogent material.

3. Husband and wife are distinct taxable persons; family relationship does not permit shifting income or unexplained money automatically from one to the other.

**B. Unchallenged affidavits/declarations must be given due evidentiary weight**

1. When a third person (here, the husband) files a declaration/affidavit owning cash and explaining the source, and the Department:
  - Does not cross-examine him, and
  - Brings no contrary evidence, the contents of such statement cannot be brushed aside on suspicion alone.
2. The Supreme Court in *Mehta Parikh & Co. v. CIT* has held that uncontroverted affidavits cannot be lightly ignored; if Revenue wishes to disbelieve, it must cross-examine and bring material to the contrary.
3. Applying this principle, once the husband has owned the deposits and filed returns/bank statements, the AO cannot reject his declaration without examination or contrary material.

**C. Section 69A is a last-resort deeming fiction, not a substitute for enquiry**


1. Section 69A is attracted only where:
  - a) The Appellant is found to be the owner of money, and
  - b) She offers no explanation about the nature and source, or
  - c) The explanation is found not satisfactory, on objective grounds.
2. Here, the Appellant has:
  - a) Identified the real owner (husband),

- b) Explained the source (business receipts and savings),
  - c) Produced supporting documents (returns and bank statements).
3. Without disproving this ownership and source, the conditions for invoking 69A in her hands are not satisfied. Thus, the foundational requirement for invoking section 69A is a positive finding that the Appellant is the owner of the money, which cannot be presumed merely from joint holding of a bank account

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#### **IV. Reliance on ITAT precedents (joint accounts & spouse cases)**

##### **1. *Sudarsan De v. DCIT – ITAT Delhi***

- i. Facts: Cash deposit of about Rs. 8.79 lakh in joint bank account with wife. Appellant explained that deposits were made by wife from income of classical singing classes and filed her affidavit.
  - ii. AO taxed in husband's hands as unexplained; CIT(A) sustained as 69A.
  - iii. Tribunal held:
    - a) Wife's affidavit remained uncontroverted; she was not cross-examined.
    - b) Following *Mehta Parikh*, unchallenged affidavit must be accepted.
    - c) Deposits, being accepted as wife's money, could not be taxed in husband's hands u/s 69A.
  - iv. Ratio for our case:
    - a) Here, the spouse (husband) has similarly owned the deposits and explained the source; his statement and returns are on record.
    - b) He has not been examined or contradicted.
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- c) On the same reasoning, no addition can be made in the wife's hands when the husband has owned the money.

**2. Sakina Ahmedali Kantavala v. ITO – ITAT Ahmedabad  
“SMC”**

- i. Facts: Cash deposits of Rs. 14.10 lakh during demonetisation in joint savings accounts with three siblings; AO taxed entire amount in Appellant's hands u/s 69A.
- ii. Appellant produced affidavits and confirmations from relatives stating that deposits represented family savings accumulated over decades, meant for medical contingencies; relatives were separate Appellants.
- iii. Tribunal held:
- a) Affidavits, if credible and supported by surrounding circumstances, are sufficient to explain source.
- b) AO/CIT(A) gave no concrete reasons to reject affidavits; mere suspicion is not enough for 69A.
- c) Considered also that similar amount was substantively added in another joint holder's case.
- d) Deleted the entire addition u/s 69A in Appellant's hands.
- iv. Ratio for our case:
- a) Deposits here are in joint account of husband and wife during demonetisation year.
- b) Husband is a separate Appellant; he has accepted ownership and explained source.

- c) On the logic of Sakina Kantavala, it is unfair and incorrect to treat entire deposits as unexplained money of one joint holder when another joint holder has owned the cash and is independently assessed.
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## V. Application to present facts

1. The Appellant has discharged her primary onus by:
  - a) Identifying her husband as the person responsible for deposits,
  - b) Filing his declaration,
  - c) Producing his returns and bank statements.
2. The Department has not:
  - a) Issued summons to the husband,
  - b) Cross-examined him,
  - c) Or brought any independent material to show that the cash was generated by the Appellant herself.
3. The only ground taken is that the husband's returned income appears low vis-à-vis deposits; even this, at best, may justify enquiry in his case, but not a deeming of ownership in the wife's hands.
4. As in *Sudarsan De* and *Sakina Kantavala*, unchallenged declarations explaining that deposits belong to other joint holders (spouse/relatives) cannot be ignored, and 69A addition in the Appellant's hands is unsustainable.
5. In order to further substantiate that the bank account was in fact operated and managed by the husband, the Appellant has placed on record copies of cheques issued from the said account which bear the signature of the

husband. This contemporaneous documentary evidence clearly establishes that the effective control and operation of the account vested with the husband and not with the Appellant . The said evidence has neither been disputed nor rebutted by the Assessing Officer.

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## **VI. AO's proper course vis-à-vis the husband**

1. Once the Appellant pointed to her husband as the owner of cash, the AO's proper legal course was to:
  - a) Call for information from him u/s 133(6),
  - b) Or summon him u/s 131 for examination, and
  - c) If he believed income escaped in husband's case, consider action under the appropriate assessment/re-assessment provisions.
2. Instead, without such enquiry, the AO has short-circuited the process by simply fastening 69A in the wife's hands, contrary to the above ITAT precedents.
3. Absent such enquiry, the Assessing Officer could not have legally bypassed the question of ownership and mechanically invoked section 69A in the hands of the Appellant

## VII. Prayer

In view of:

- I. The consistent explanation that the deposits belong to the husband,
- II. The supporting documents already placed on record, and
- III. The ratios of *Sudarsan De* and *Sakina Ahmedali Kantavala* on joint accounts and ownership of cash,
- IV. It is respectfully prayed that the entire addition of Rs. 52,24,000 u/s 69A r.w.s. 115BBE in the hands of Smt. Trupti Shukla be deleted.

6. We have heard the rival submissions, considered the documents/evidence on record and analyzed the facts and circumstances in this case. There was scrutiny assessment based on the information that the assessee had deposited cash amounting to Rs.19,35,000/- in her bank account during demonetization period and the initial assessment order u/s. 143(3) of the Act was passed on 16.12.2019 with an addition of Rs.19,35,000/- as unexplained money u/s. 69A of the Act. Thereafter, order u/s. 263 of the Act was passed wherein the Pr. CIT held that the A.O had added only Rs.19,35,000/- i.e. the cash deposits during demonetization period instead of entire amount of cash deposits during F.Y.2016-17 i.e. Rs.52,24,000/-. The case was set-aside for denovo assessment and during such consequential assessment proceedings, the

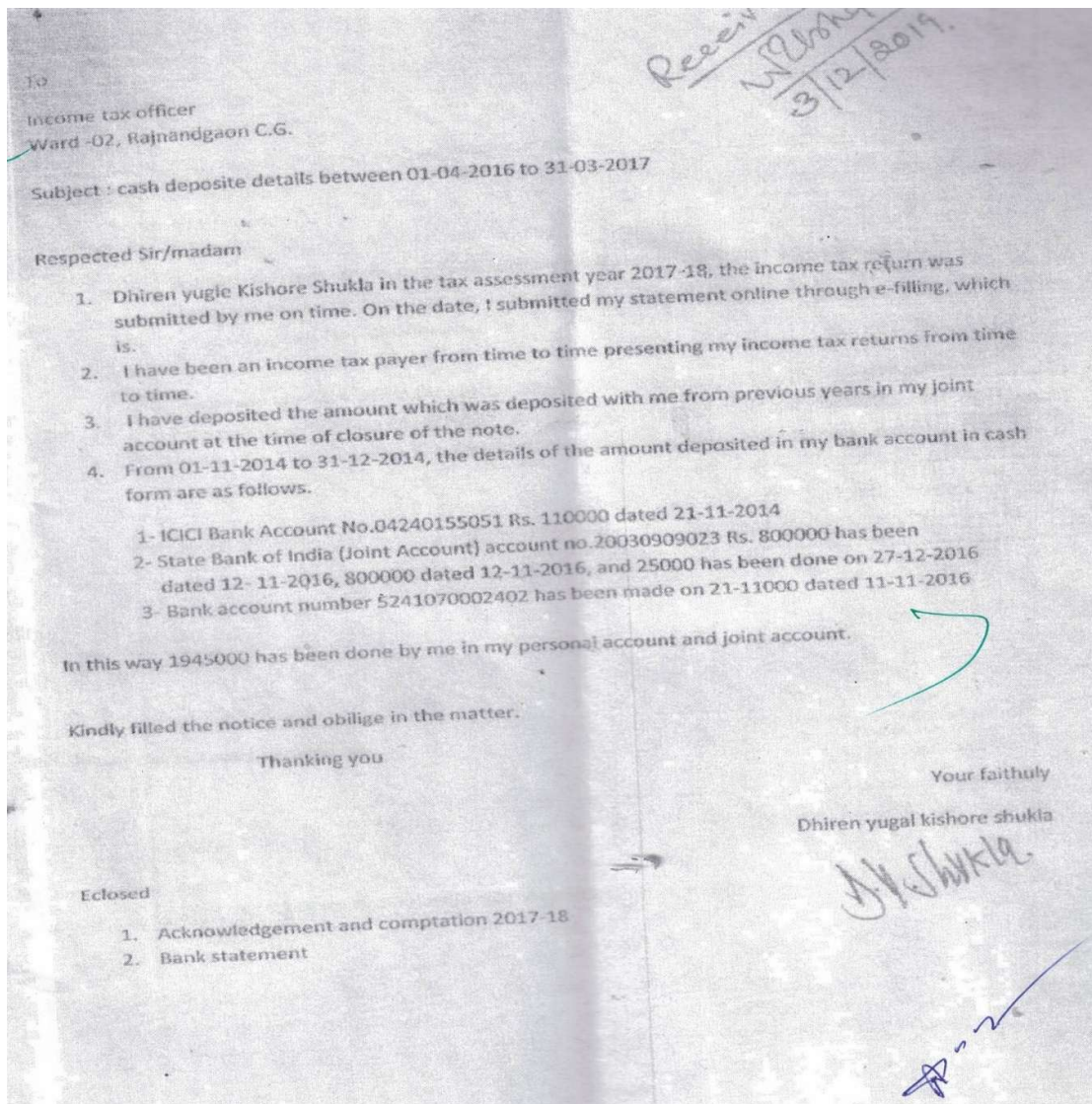
assessee submitted a declaration by her husband that he deposited cash of Rs.19,45,000/- in their joint account during demonetization period. The assessee also submitted a letter by her husband Shri Dhiren Yugal Kishore stating that the cash deposits in the joint account have been made by him and the source of the same was cash received by him during the course of business activities and also from his past year savings. However, the A.O observed from ITRs of A.Y.2016-17, 2017-18 and A.Y.2018-19 of her husband that the returned income is not matching with the amount deposited and therefore, in the consequential order passed u/s. 143(3) r.w.s. 263 of the Act, the addition of Rs.52,24,000/- u/s. 69A of the Act was made in the hands of the assessee.

7. That being aggrieved with such assessment order, the assessee preferred an appeal before the Ld. CIT(Appeals)/NFAC. That before the said authority also, the assessee reiterated that it was a joint account and the money therein belongs to the assessee as well as her husband and the source of such cash deposits made by the husband of the assessee was from his regular course of business activities and also from his past savings. The Ld. CIT(Appeals)/NFAC summarily brushed aside the submissions of the assessee and dismissed the appeal.

8. We find that the Revenue has neither disputed that the account is joint account nor has disputed the source of income of the assessee as well

as her husband. The Department has also not unearthed any other undisclosed sources of income of the assessee as well as her husband. It has been explained through declaration by her husband as well as letter from the assessee that the cash deposits made during the demonetization period was by husband of the assessee in the joint account. Further, the Revenue did not provide any opportunity for cross examination of the husband of the assessee and the first appellate authority has also not conducted any independent inquiry so to come to a rational conclusion. It is important for quasi-judicial authority to consider all the documents placed on record before arriving at a particular decision and if the relevant documents that has been furnished by the tax payer assessee before such quasi-judicial authority has been summarily brushed aside and not considered, such action of the said authority becomes perverse, arbitrary and bad in law. It was more important for the Revenue to comply with the principles of natural justice in more particular "*audi-alterm partem*" i.e. right to be heard and once the declaration was given by her husband, it was incumbent upon the Ld.CIT(Appeals)/NFAC to conduct necessary inquiry to ascertain the genuineness of the claim raised by the assessee and to cross examine the claim raised by husband of the assessee. That in absence of any such inquiry and simply dismissing the appeal of the assessee summarily is not validated within the purview of Income Tax legislation.

9. At this stage, we deem it fit to extract the said relevant declaration submitted by husband of the assessee before the Department a/w. letter of the assessee which reads as follows:



To  
Income Tax Officer

Subject: Cash Deposit details for the assessment year 2017-18

Respected Sir/ Madam,

1. I Dhiren Shukal do submit that the return of income for the assessment year 2017-18 was submitted on time. On the date I submitted my statement online through e-filing portal. I have been income tax payer from time to time and am enclosing herewith the return acknowledgment for past three years.
2. I have deposited the cash in the joint account held in the name of my wife and myself from the cash received by me during the course of my business activities and past year savings. My wife is a school teacher and she has no idea in relation to the cash deposit made in the joint account.

Kindly accept the above submission and oblige in the matter

Thanking you

Your Faithfully

*Dhiren Shukla*

Dhiren Yugal Kishore Shukla

Enclosure:

1. Bank Statement
2. Acknowledgement of return for past three years.

10. In the aforesaid letter, it has been disclosed by the husband of the assessee that he is regular tax payer and that he has given the entire

break up of the deposits of Rs.19,45,000/- in the said bank account. He has further declared that he had deposited cash in joint account held in the name of his wife and himself from the cash that was received by him during the course of his business activities and past years savings and that his wife is a school teacher and she has no idea in relation to the cash deposits made in the joint account. It is a matter of practical parlance that in order to use money for running household, both wife and husband opens a joint account in the bank for various practical purposes and for ease of overcoming day to day financial requirements. The money deposited in such account belongs to both the account holders and when statement/submissions were made before the Department regarding genuineness of a particular deposits without examination of such contents therein, it was not appropriate for the Department to fasten liability u/s.69A of the Act in the hands of one account holder when facts are that such deposits were made by the other account holder. The source and nature of such cash deposits when has been clearly explained the addition u/s. 69A of the Act as unexplained money is thereby unjustified and misplaced, bad in law.

11. We further take guidance from the judgment of the **Hon'ble Supreme Court** in the case of **Mehta Parikh & Co. Vs. CIT (1956) 30 ITR 181 (SC)**, wherein, it had been held that uncontroverted affidavit should not be ignored and the contents thereof must be considered as true and

correct. The same was also followed by the Co-ordinate Bench of the Tribunal, Delhi in the case of **Sudarsan De Vs. DCIT, Circle-2(2)(1), ITA No.5176/Del/2024, A.Y.2015-16, dated 20.08.2025**. We also observe that the Revenue has failed to bring on record any contrary material disbelieving the contents of the declaration filed by husband of the assessee before the Department. There is no contrary material to suggest that money deposited was not of the husband of the assessee who was also a joint holder of the account. Further, neither the A.O nor the Ld.CIT(Appeals)/NFAC has provided any concrete reasoning to reject the submission/declaration filed by the assessee and her husband. Mere suspicion and conjecture is not sufficient to sustain the addition u/s. 69A of the Act.

12. We, therefore, set-aside the order of the Ld. CIT(Appeals)/NFAC and direct the A.O to delete the entire addition made u/s.69A r.w.s 115BBE of the Act from the hands of the assessee while giving appeal effect of this order. We order accordingly.

13. As per the above terms grounds of appeal raised by the assessee are allowed.

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

Order pronounced in the open court on 11<sup>th</sup> February, 2026.

Sd/-  
**AVDHESH KUMAR MISHRA**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 11<sup>th</sup> February, 2026.  
SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.