

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“GUWAHATI BENCH”, GUWAHATI**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI DUVVURU RL REDDY, VICE PRESIDENT**  
**SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos. 190 & 191/GTY/2025
Assessment Years : 2013-14 & 2014-15

<b>Laltanpuia Chawghlut,</b> G-29, Ground Floor, Laltanpuia Chawnglut Building, Lower Chanmari, Aizwal - 796007 [PAN: AGHPC3100C]	Vs.	<b>Income Tax Officer,</b> Ward – 1, Silchar, Assam - 788001
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Siddhant Sharma, FCA
Revenue by	:	Santosh Kumar Karnani, Addl. CIT

Date of hearing	:	21.01.2026
Date of Pronouncement	:	11.02.2026

**ORDER**

**PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

These two appeals filed by the assessee against the separate appellate order passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)] dated 30.05.2025 for AY 2013-14, DIN & order No. ITBA/NFAC/S/250/2025-26/1076591970(1) and for AY 2014-15, order dated 30.05.2025 DIN & order No. ITBA/NFAC/S/250/2025-26/1076595099(1) respectively.

2. From the order of lower authorities and grounds of appeal, we noted that the issue raised by the assessee are similar for both the years where the exemption u/s 10(26) of the Act has not been granted to the assessee and the addition made to the amounts deposited in the bank account u/s 69A of the Act. Both cases were heard together, therefore, we are passing a common order for both the years except only there is difference in the figures.

3. We noted that the assessee has filed additional ground before the ITAT dated 15.09.2025 as under:

*"1. That Sir, apart from the ground taken while filing the appeal. I want to raise an additional ground of appeal which was not taken at the time of filing the appeal due to oversight.*

*"For that the Assessment Order passed u/s 147 r.w.s. 144 of the Act is invalid and liable to be quashed in absence of non-issuance of notice u/s 143(2) of the Act by the Assessing Officer."*

*2) That Sir, the additional ground of appeal is legal/technical in nature and arising out of the assessment order.*

*3) That Sir, reliance is placed on the judgment rendered by the Hon'ble Supreme Court in the case of Jute Corporation of India Ltd. vs CIT 187 ITR 688 (5.C.) wherein the Hon'ble judges have allowed the assessee's appeal of raising additional ground of appeal before the appellate authority.*

*4) That Sir, in the case of the appellant also the additional ground raised is legal in nature so, I request you to kindly admit the additional ground of appeal raised."*

4. On going through the above additional ground, we noted that the issue raised by the assessee is legal ground, qua which all the facts are available in the appeal folder and no further verification of facts are required from any order whatsoever. In our considered view the assessee is at liberty to raise any legal issue before any appellate authority for the first time even when the same has not been raised before the lower stages. The case of the assessee is squarely covered by the decisions of the Apex court in the case of i) Jute Corporation of India Ltd. Vs CIT in

187 ITR 688, ii) National Thermal Power Co. Ltd v. CIT [1998] 229 ITR 383 and also by the decision of Hon'ble Calcutta High Court in PCIT vs. Britannia Industries Ltd. [2017] 396 ITR 677 (Cal). Therefore, we are inclined to admit the same for adjudication.

5. We admit the additional ground and taking up for adjudication. Since, assessee did not file his return of income u/s 139 of the Act as well as in response notice u/s 148 of the Act within the specified time. Therefore, there is no requirement to issue of notice u/s 143(2) of the Act, the notice u/s 143(2) can be issued only if the assessee filed valid return of income, in the cash on hand the assessee has not filed any return of income therefore, there is no requirement to issue notice u/s 143(2) of the Act. Accordingly, additional ground raised by the assessee is dismissed.

6. Briefly stated the facts of the case are that as per the insight portal of the income tax department, it was noticed that the assessee deposited huge cash in his bank account for both the years and did not file his return of income u/s 139 of the Act. Accordingly, after following the due procedure for making reassessment as per the provision of section 147 to 151 of the Act, the notice was issued u/s 148 of the Act on 30.03.2021 and time was granted to file return of income for 30 days but assessee did not file return of income. Subsequently, other statutory notices u/s 142(1) of the Act was issued to the assessee but the assessee did not file any documents. Accordingly, show cause notice u/s 148 of the Act was issued to the assessee on 21.03.2022, the assessee did not make any submissions in response to the show cause notice later on the assessee filed following submissions:

*(i) "I belong to a scheduled tribe mentioned u/s 10(26) of the Act and conduct trading business in the name of M/s MOSIA AGENCIES in District of Aizwal. I have satisfied all conditions mentioned in section and hereby*

*attach my GST Registration Certificate, and ST Certificate to substantiate my claims”.*

7. The AO after examining the above submissions he did not accept the submissions of the assessee for the following reasons:

(a) Mere submission of certificate does not prove that all the condition of section 10(26) are satisfied.

(b) GST registration only indicates that he registered his business concern with GST. It does not pursue prove the sources & nature of cash so deposited in his bank account.

(c) The assessee was required to adduce evidences to establish that the cash so deposited was out of his business activities carried out in the state of Mizoram. Hence, the claim of exemption u/s 10(26) of the Act was not accepted.

8. After analysing the provision of section 69A of the Act, he noted that the assessee has deposited cash in his bank account but such deposits are not recorded in the books of accounts of the assessee. Further, nature and source of such deposits made in the bank account were not at all explained. Further for making invoking the deeming section 69A of the Act. there should be clearly identifiable assets or unexplained money. It is amply proved beyond doubt that the assessee has deposited cash in bank accounts stand unexplained and the sum of Rs. 1,13,53,33,000/- & Rs. 32,66,28,000/- are identifiable unexplained assets.

9. Aggrieved from the above order the assessee filed appeal before the Id. CIT(A), after going through the materials available before him he dismissed the appeal of the assessee.

10. Aggrieved from the order of the ld. CIT(A) the assessee is in appeal before the ITAT.

11. The ld. Counsel for the assessee reiterated the submissions made before the lower authorities. He further submitted that the assessee produced the Scheduled Tribes certificate, residential certificate and tax exemption certificate are placed at paper book pages 49 to 51. He further submitted that the assessee is registered under GST and filing return placed at paper book page no. 55 to 66. He further referred to the bank statement, agreement with suppliers and supplier confirmation at pages 67 to 134 of the paper book and supported that the assessee is eligible for exemption u/s 10(26) of the Act and the assessee has fulfilled by submitting the necessary certificates issued by the office of DCIT, Aizwal District, dated 27.06.2011 of DCIT, Aizwal District, Mizoram for residential certificate dated 08.05.2024 and ST/Caste Certificate issued by the office of DCIT, Aizwal District dated 30.04.2011 and the assessee is engaged in the business of FMCG. He also referred to the bank statement and submitted that the assessee has withdrawn money towards the purchase of the goods for trading activities and requested that the assessee may be allowed exemption u/s 10(26) of the Act on the income earned. The assessee has filed paper book containing page No. 1 to 142.

12. On the other hand, the Ld. DR strongly supported the order of the lower authorities and submitted that in spite of having huge bank transaction, the assessee did not file his return of income in spite of given various chance to the assessee, the assessee did not file return of income in response to the notice u/s 148 of the Act too. He merely replies only when the show cause notice was issued to the assessee and he was very well aware. Therefore, the AO was bound to complete the assessment u/s 147 r.w.s. 144 r.w.s. 144B of the Act and during the remand proceeding,

the assessee could not rebut the findings of the AO and could not prove the source of deposits in terms of section 69A of the Act and did not produce any certificate /documents to prove the cash deposits are out of business receipts. Even the assessee has not computed his income from business if it was carried on by the assessee. The assessee is claiming exemption on the entire deposits which are not correct, the exemption u/s 10(26) may be allowed only on the income. Therefore, the AO is justified to make addition u/s 69A of the Act for not explaining with cogent documents to the source of bank deposits. Further, the assessee could not explain the source of deposits during the remand proceeding the cash deposited in his bank account. Merely the exemption certificate produced by the assessee which is placed on record at paper book, page no. 49 to 51 is not sufficient to claim of exemption u/s 10 (26) of the Act. The AO has made addition under the deeming provision for not explaining the source of deposits in the bank account. He should have explained the source for getting benefit of exemption u/s 10(26) of the Act and he strongly supported the order of lower authorities .

13. Considering the rival submissions and perusing the entire materials available on record and the orders of authorities below. We noted that the assessee has deposited huge amount in his bank account for both the years and during the assessment proceedings the assessee submitted vague reply noted (supra) and in the remand proceedings, the assessee furnished evidences and the Ld. CIT(A) called remand report against the remand report, assessee filed rejoinder. On going through the remand report and rejoinder filed by the assessee. The GST return filed by the assessee does not prove the legitimate source of bank deposits without supporting documents. We noted that even in remand report proceedings could not prove the source of cash deposits in his bank account with legitimate evidences and as per the observation of the AO, the Assessee has not produced books of accounts, bills and vouchers in

support of his claim even if he did not file the return income and financial statements which prove that the assessee had no evidences and not maintained books of accounts. We also noted that the assessee has not computed his income from business as stated that the assessee is running a FMCG. Firstly, the assessee has to compute his income from business of profession carried on by him as per the provision of the Act and thereafter he may make claim for exemption as per section 10(26) of the Act if he is satisfied the conditions as per the IT Act, but the entire receipts/deposits in bank account is not qualify for exemption u/s 10(26) of the Act, the exemption is only on the income computed as per the provision of the Act even before us the assessee could not furnish any single documents about the trading activity carried on by him only bank statement and agreement with suppliers have furnished but the assessee did not furnish the source of deposits in his bank account. It is also interesting to note that there is huge variation in the bank deposits between the two years and the reason has also not explained. Considering the totality of facts and circumstances of the case the claim of exemption u/s 10(26) of the Act cannot be granted merely on the basis of tribal status and residence and it is the duty of the assessee to conclusively prove that the income was derived from legitimate source within the specified area and is not in the nature of income taxable under the specified head. Apparently the assessee has has not discharged his liability, the case laws relied by the Ld. CIT(A) noted (supra) and relied by the AO in the case of Chuharmal Vs. CIT (1988) 172 ItR 250 (SC) supports the order of the Ld. CIT(A) and the AO. Considering the totality of the facts and observation noted above (supra) we are dismissing the appeals.

14. In the result, both appeals filed by the assessee in ITA No. 190/Gty/2025 and 191/Gty/2025 are dismissed.

Order pronounced on 11.02.2026.

Sd/-  
**(Duvvuru RL Reddy)**  
**Vice President**

Sd/-  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

Dated: 11.02.2026

AK, Sr. P.S.

*Copy of the order forwarded to:*

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches