

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

PHYSICAL HEARING

BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

- 1. आयकर अपील सं. / ITA No.922/CHANDI/2025**
(निर्धारण वर्ष / Assessment Year: 2000-01)
&
2. आयकर अपील सं./ ITA No.923/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2002-03)

Shri S. S. Kaushal Prop. M/s Shiva Enterprises 4-5, Meghna Complex, The Mall Shimla (HP) - 171001	बनाम/ Vs.	ITO Ward-1 Railway Board Building The Mall Shimla - 171003
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ACAPK-5749-E		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. V. K. Gulati (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/Respondent by	:	Sh. Dr. Ranjit Kaur (Addl.CIT) – Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing	:	12.02.2026
घोषणाकीतारीख /Date of Pronouncement	:	24.02.2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2000-01 and 2002-03 are directed against the common order of learned Commissioner of Income Tax (Appeals), Shimla [CIT(A)] dated 14-02-2020 in the matter of an assessment framed by Ld.

Assessing Officer [AO] u/s 143(3) r.w.s. 148 of the Act on 29-12-2004. The registry has noted delay of 71 days in the appeals which stand condoned. Having heard rival submissions, the appeal is disposed-off as under. The Ld. AR has pleaded for telescoping benefit which has been opposed by Ld. Sr. DR.

2. It emerges that the assessee was subjected to survey on 18-07-2003. The assessee is stated to be engaged in various business activities under his proprietorship concern namely M/s Shiva Enterprises. It transpired that the assessee was not maintaining any books of accounts. The Ld. AO framed assessments from AYs 1999-2000 to 2002-03 and determined income for each of these years. The assessee preferred further appeals wherein the appeal of the assessee was ultimately partly allowed by Ld. CIT(A) vide order dated 14-02-2020. Pursuant to the order of Ld. CIT(A), giving effect order has been passed by Ld. AO for 2000-01 & 2002-03 on 16-03-2020 which is placed on record. In AY 2000-01, Ld. AO has sustained addition of Rs.2,40,624/-. The capital gains addition has been restricted to the extent of Rs.28,544/-. In AY 2002-03, Ld. AO has made addition of Rs.9,26,322/- on account of purchase of vehicle, sustained addition of Rs.16,72,680/- for undisclosed income and capital gains addition has been restricted to Rs.3,72,566/-. Aggrieved, the assessee is in further appeals before us.

3. It could be seen that Ld. CIT(A), at para 8.1.4 of the impugned order, after considering remand findings, has worked out the funds availability with the assessee as under: -

Description	1999-2000	2000-01	2001-02	2002-03
Workout from above bank accounts	1175239	2486118	661380	4037347
Less : receipts of Hill Crest	471502	198094	238220	317267
Balance	703737	2288024	423160	3720080
Available funds as accepted	2047400	2047400	2047400	2047400
Balance	-1343663	240624	-1624240	1672680

It is quite clear that the assessee has excess funds for Rs.13,43,663/- for AY 1999-2000. Therefore, the benefit of the same would certainly be available to the assessee. Therefore, the addition of Rs.2,40,624/- for AY 2000-01 stand deleted. Similarly the remaining surplus fund of AY 1999-2000 (Rs.13,43,663/- - Rs.2,40,624/- = Rs.11,03,039/-) and surplus fund for AY 2001-02 (Rs.16,24,240/-) would far exceed shortage of funds in AY 2002-03 for Rs.16,72,680/- as well as investment in purchase of vehicle for Rs.9,26,322/-. Therefore, the twin additions of Rs.16,72,680/- & Rs.9,26,322/- as sustained by Ld. AO in AY 2002-03 stand deleted.

4. So far as the addition of capital gain for Rs.3,72,568/- in AY 2002-03 is concerned, the assessee himself has worked out the same at Rs.2,72,568/- which has been accepted by Ld. CIT(A). However, the quantum has, inadvertently, been mentioned as Rs.3,72,568/- in the impugned order. Therefore, Ld. AO is directed to restrict the addition to the extent of Rs.2,72,568/- as computed by the assessee himself. The deduction u/s 54 could not be allowed since the assessee has failed to substantiate the same. This addition for AY

2000-01 does not require any interference on our part since the same has been computed by the assessee himself.

5. Both the appeals stand partly allowed.

Order pronounced on 24th February, 2026.

-Sd-
(RAJPAL YADAV)
VICE PRESIDENT

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated:24.02.2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH