

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2338, 2339 & 2340/PUN/2024
निर्धारण वर्ष / Assessment Years : 2014-15, 2015-16 & 2017-18

Prasad Ramchandra Patil, House No. 1275, Vindhare Village Post Digode, Tal Uran Panvel, Dist. Raigad-401206 PAN : ASJPP8541J	Vs.	ITO, Ward – 3, Panvel
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Prakash Pandit
Department by :	Shri Amit Bobde
Date of hearing :	02-02-2026
Date of Pronouncement :	18-02-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The above three appeals filed by the assessee are directed against the separate but consolidated orders all dated 18.09.2024 of the Ld. Commissioner of Income Tax (Appeals), Pune-11 [**"CIT(A)"**] pertaining to Assessment Years (**"AYs"**) 2014-15, 2015-16 and 2017-18. Since identical issues are involved in all the three appeals, for the sake of convenience, all these appeals were heard together and are being disposed of by this common order.

ITA No. 2338/PUN/2024, AY 2014-15

2. Briefly stated the facts of the case are that the assessee is an individual. He has not filed his original return of income for A.Y. 2014-15. It is a case where an amount of Rs.1,00,00,000/- was found in possession of the assessee and Shri Harishchandra Madhukar Shinde. Both were intercepted by the police. Out of the total amount of Rs.1,00,00,000/-, Rs.50,00,000/- belonged to the assessee and the balance amount of Rs.50,00,000/- belonged to Shri Harishchandra Madhukar Shinde. As the source of cash could not be explained by them at that time, the cash was seized by the police. Subsequently, on 23.11.2016, requisition u/s 132A of the Income Tax Act,

1961 (the “**Act**”) was executed by the DDIT, Inv., Mumbai and the said amount was accordingly seized by the Department. Thereafter, the case of the assessee was reopened by issuance of notice u/s 153A of the Act on 24.11.2018 for AY 2014-15 which was duly served upon the assessee through e-mail and post. In response to notice u/s 153A of the Act the assessee failed to file his return of income for AY 2014-15. The Ld. Assessing Officer (“**AO**”) issued a show cause notice on 20.12.2018 in response to which the assessee’s Authorized Representative sought adjournment which was rejected by the Ld. AO due to reason that the scrutiny proceedings of the assessee were getting time barred by limitation on 31.12.2018. Under these circumstances, the Ld. AO proceeded to complete the assessment passed u/s 144 r.w.s. 153A of the Act based on the material available on record. During the assessment proceedings, on perusal of the bank account extracted of the assessee for AY 2014-15, the Ld. AO found that the assessee received total deposits of Rs.1,03,069/- in his bank account with Axis Bank and Rs.1,23,66,330/- in his bank account with ICICI bank. In the absence of any return of income filed by the assessee as well as any explanation furnished by the assessee, the Ld. AO treated the sum of Rs.1,24,69,339/- as unexplained money and added the same to the total income of the assessee u/s 69A of the Act. Further, the Ld. AO found that the assessee received total sum of Rs.39,36,240/- as gross receipts for the relevant year i.e. AY 2014-15 from M/s. Logon India Infrastructure Pvt. Ltd. However, in the absence of any proof and/or any explanation/documentary evidences regarding the expenses incurred by the assessee against the gross receipts of Rs.39,36,240/-, the Ld. AO considered the expenses incurred by the assessee against the gross receipts as Nil and treated the gross receipts of Rs.39,36,240/- as business income of the assessee and estimated the income @ 25% of the gross receipts of Rs.39,36,240/- which worked out to Rs.9,84,060/- and added the same to the total income of the assessee under the head ‘business income’. The Ld. AO, therefore completed the assessment determining the assessed income of the assessee at Rs.1,34,53,399/- for the AY 2014-15 vide his order dated 28.12.2018 passed u/s 144 r.w.s. 153A of the Act.

3. Aggrieved, the assessee filed an appeal before the Ld. CIT(A). Before the Ld. CIT(A) the assessee along with the grounds on merits also raised certain legal grounds challenging the validity of assessment order/proceedings which were dismissed by the Ld. CIT(A). On merits, as regards the grounds raised in

relation to addition made by the Ld. AO u/s 69A of the Act of Rs.1,24,69,339/- and Rs.9,84,060/- as business income of the assessee, the Ld. CIT(A) after considering the submissions of the assessee and calling for remand report from the Ld. AO, dismissed the grounds of appeal raised by the assessee on the issue of addition of Rs.1,24,69,339/- made by the Ld. AO u/s 69A of the Act by observing as under :

“44. Vide ground no. 8 and 9, the appellant has contended the addition of Rs.1,24,69,339/- made u/s. 69A of the Act. The facts leading to this addition have already been discussed in this order. During the appellate proceedings, the appellant has submitted as under:-

19. It is submitted that for the assessment year under appeal the assessee was carrying on the business as contractor/sub-contractor for Logon India Infrastructure Pvt. Ltd. as well as supplier of material to the said company. The total turnover as a contractor/sub-contractor for the said Company is Rs. 39,36,240/- and the remaining turnover of Rs.59,81,720/- arises out of supply of materials to the said Company, aggregating total turnover of Rs. 99,17,960/- The said Company had deducted tax at source of Rs. 46,763/- as per 26AS form on record. It is submitted that there is no incriminating material found for the year under appeal. The AO has merely added deposits in the banks ignoring the fact that the said deposits are on account of business receipts of Rs. 39,36,240/- as a contractor/sub-contractor received from time to time from Logon India Infrastructure Pvt Ltd. Therefore, the said deposits in the bank are not unexplained cash credits within the meaning of section 69A but are the business receipts. It is further submitted that though the assessee did not file his return of income for the said year, as he was suffering continuous losses from the year under appeal onwards and subsequently the assessee had closed his business from AY 2017-18 onwards. It is submitted that the AO in his assessment order admits that receipt of Rs. 39,36,240/- arises out of business which is a part of the deposits in the banks. It is further submitted that while carrying out the said business, there are withdrawals by cheque and cash from time to time and as such the same is not unexplained money. It is submitted that section 69A which is a deeming provision deals with unexplained money etc. comes into play only if the following two conditions are fulfilled viz.

(i) the assessee is found to be owner of any money bullion of jewellery or valuable articles and

(ii) such articles are not recorded in the books of accounts, if any, maintained by the assessee for any source of income.

In assessee's case, the assessee maintains books of accounts and the said money deposited in the bank is already recorded in his books of accounts. Therefore, section 69A has no application.

20. It is submitted that out of the total turnover of Rs. 99,17,960/-, the AO had already estimated profit @25% on the turnover of Rs. 39.36.240/- It is submitted that the balance turnover of Rs. 59,81,720/- also arise out of the business activities of the assessee. Therefore, entire addition of Rs. 99,17,960/- requires to be deleted.

45. In this regard, vide remand report dated 10.07.2024, the AO has submitted as under:-

12. In para 19, the assessee has stated that the assessee maintains books of accounts and the said money deposited in the bank is already recorded in his books of accounts. Therefore, section 69A has no application.

Reply: During assessment proceedings, the assessee avoided to comply to the show cause notice. Therefore, in absence of any explanation, the AO was compelled to complete the assessment on the basis of information available on record before the limitation of time which would have got time barred on 31/12/2018.

13. In para 20, the assessee has stated that the assessee had total turnover of Rs.99,17,960/-, the AO had already estimated profit 25% on the turnover of Rs.39,36,240/-. The balance turnover of Rs.59,81,720/- also arise out of the business activities of the assessee. Therefore, entire addition of Rs.99,17,960/-requires to be deleted.

Reply: In absence of any explanation called for through show notice issued to the assessee, the AO was compelled to complete the assessment on the basis of information available on record before the limitation of time which would have got time barred on 31/12/2018 and passed the best judgement assessment u/s. 144 of the Act. The Ld. CIT(A) may decide the matter on merit of the case.

14. In para 21, the assessee has stated that the assessee has no objection to estimate the business income at 8% of the total turnover of Rs. 1,24,39,339/-.

Reply: The assessee had failed to file return of income as well as had not furnished any documentary evidences such as books of accounts to establish the income from the business. Therefore, in absence of any explanation called for through show notice issued to the assessee, the AO was compelled to complete the assessment on the basis of information available on record before the limitation of time which would have got time barred on 31/12/2018 and passed the best judgement assessment u/s. 144 of the Act. The Ld. CIT(A) may decide the matter on merit of the case.

Findings

46. I have considered the facts of the case, submissions made by the appellant and the remand report of the AO. In brief, the appellant's contention is that the total turnover for the year was Rs.99,17,960/- out of which Rs.39,36,240/- were received as contract receipts from M/s. Logon India Infrastructure Pvt. Ltd. Therefore, the said deposit cannot be considered as unexplained income u/s. 69A of the Act. It has been further submitted that he could not file the ITR due to continuous losses. The appellant has accordingly requested that, the receipts may be considered as business receipts and appropriate entry date may be applied.

47. It is an undisputed fact that the appellant did not file any return of income u/s. 139 of the Act. It is also not under dispute that no return was filed even after issuance of notice u/s. 153A of the Act. The appellant has submitted that he did not file the ITR because he was suffering from continuous losses. This claim of the appellant is factually incorrect because upto AY 2013-14, the appellant was filing ITR declaring positive income and therefore the claim of the appellant that he was suffering from continuous losses is factually incorrect.

48. The contention of the appellant that the deposits in the bank account are on account of business receipts, cannot be accepted, because of following reasons:-

- It is not under dispute that the appellant did not attend the assessment proceedings. Even the opportunity of physical hearing granted to the appellant was not availed by him.

- Further, before me, the appellant has not substantiated the amount deposited in its bank account are business receipts.
- No details of parties from whom such receipts are received by the appellant have been furnished, neither the details of services rendered or goods supplied has been disclosed.
- The appellant has neither filed the copy of form no. 26AS before me.
- It is also important to note that in reply to question no. 4 of the statement recorded u/s. 131 of the Act on 21.11.2016, the appellant submitted that he is an Estate Agent dealing in purchase and sale of land. It was further stated in the statement that he has income from sales/purchase of land amounting to Rs.7 lakhs to Rs.9 lakhs yearly.
- No evidence has been filed to substantiate that the amount of Rs.39,36,240/- received from M/s. Logon India Infrastructure Pvt. Ltd. is included in the deposits of Rs. 1,24,69,339/- considered by the AO.

In such situation, the contention of the appellant that the deposits in the bank account are on account of business receipts, cannot be accepted on face of it. Since, the appellant has failed to substantiate his submission by way of supporting evidences, the claim of the appellant is rejected. Accordingly, the addition of Rs.1,24,69,339/- made by the AO by treating the same as unexplained deposits, is upheld. The ground no. 8 and 9 raised by the appellant is DISMISSED.”

4. Regarding the addition of Rs.9,84,060/- made by the Ld. AO by estimating the profit @25% on the receipts of Rs.39,36,240/- as business income of the assessee, the Ld. CIT(A) partly allowed the assessee’s appeal on this ground and directed the Ld. AO to estimate the profit on receipts of Rs.39,36,240/- by taking the net profit @8%. The relevant observations and findings of the Ld. CIT(A) is reproduced below :

“49. The ground no. 10 is regarding the addition of Rs.9,84,060/- by estimating the profit @25% on the receipts of Rs.39,36,240/- during the year. In this regard, the appellant has submitted that these receipts are business receipts on account of contracts carried out by the assessee and therefore profit should be estimated @8% of these receipts. The AO in his remand report has submitted that the order was passed to his best judgement and the matter may be decided on merits.

Findings

50. I have considered the facts of the case and the submissions made by the appellant. The appellant has contended that the receipts of Rs.39,36,240/- were on account of contract receipts. It has also been submitted by the appellant that TDS has been deducted on these receipts u/s. 194C of the Act. This submission of the appellant has not been disputed by the AO in his remand report. Moreover, it is seen from the assessment order that the AO has not given any basis of estimating the income @ 25%. Considering these facts, the contention of the appellant that the profit may be estimated @8% has merits. Accordingly, the AO is directed to estimate the profit on receipts of Rs.39,36,240/- by taking the N.P. rate of 8%. The ground no. 10 raised by the appellant is PARTLY ALLOWED.”

5. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal :

- “1. In the facts and circumstances of the case and in law requisition made u/s. 132A is not legally tenable in law and therefore notice issued u/s. 153A dated 24/11/2018 in pursuance of illegal requisition is void ab-initio.
2. In the facts and circumstances of the case and in law the assessment framed in name of Prasad Ramchandra Patil is void ab-initio since the Warrant Of Authorization u/s. 132A was issued in the joint names of Harishchandra Madhukar Shinde and Prasad Ramchandra Patil.
3. In the facts and circumstances of the case and in law notice u/s. 153A dated 24.11.2018 is void ab-initio, without jurisdiction and bad in law.
4. In the facts and circumstances of the case and in law, approval granted by the JCIT u/s. 153D is bad in law and therefore the assessment is void ab-initio.
5. In the facts and circumstances of the case and in law the assessment order passed u/s. 144 r.w.s. 153A is against the law, without jurisdiction and without principle of natural justice and all other known principles of law.
6. In the facts and circumstances of the case and in law the learned CIT(A) erred in confirming addition of Rs. 1,24,69,339/- made by the AO by invoking provisions of section 69A of the Act as alleged unexplained cash deposits.
7. In the facts and circumstances of the case and in law the learned CIT(A) erred in restricting estimation of net profit @8% on the receipt of Rs. 39,36,240/- as against total turnover of Rs. 99,17,960/-.
8. In the facts and circumstances of the case and in law the learned CIT(A) having estimated income on the gross receipts of Rs. 39,36,240/- which is a part of total deposits of Rs. 1,24,69,339/-, erred in sustaining the addition of Rs. 1,24,69,339.
9. The assessee craves leave to add, amend, alter, modify, or omit any of the aforesaid Grounds of Appeal as occasion may arise of demand.”

6. The Ld. AR submitted that the assessee is not pressing the legal grounds i.e. ground Nos. 1 to 5 and the matter may be decided on grounds of appeal on merits i.e. ground Nos. 6 to 8. Accordingly, we proceed to decide the issues raised by the assessee on merits of the case and the legal grounds i.e. ground Nos. 1 to 5 are dismissed as “Not Pressed”.

7. The Ld. AR submitted that no cash was deposited by the assessee and all the deposits were made through proper banking channels into the respective bank accounts of the assessee. All the receipts are contract receipts. The Ld. AR submitted a chart showing that as against the total deposits of Rs.1,23,66,330/- for the period 01.04.2013 to 30.06.2013, the total

withdrawals are Rs.13,06,50,408/-. Further, the total deposits from the contractor, M/s. Logon India Infrastructure Pvt. Ltd. during the AY 2014-15 amounts to Rs.9,11,80,000/-. The Ld. AR further submitted that the Ld. AO has estimated income on the entire deposits including the receipts on which TDS was duly deducted which has resulted into double taxation. The Ld. AR filed detailed written submissions raising the following contentions and urged that the Ld. AO may be directed to re-compute the addition by applying the reasonable profit rate as may be deemed proper by the Bench. :

“Submissions on Ground No 6, 7 & 8 which deal with unexplained deposits of Rs. 1,24,39,339/- in the bank, added by the AO u/s. 69A of the Act.

16. *It is submitted that for the assessment year under appeal assessee was carrying on the business as contractor/sub-contractor for Logon India Infrastructure Pvt. Ltd. as well as supplier of material to the said company. The total turnover as a contractor/sub-contractor for the said Company is Rs. 39,36,240/- and the remaining turnover of RS. 59,81,720/- arises out of supply of materials to the said Company, aggregating total turnover of RS. 99,17,960/-. The said Company had deducted tax at source of Rs. 46,763/- as per 26AS form on record. It is submitted that there is no incriminating material found for the year under appeal. The AO has merely added deposits in the banks ignoring the fact that the said deposits are on account of business receipts of Rs. 39,36,240/- as a contractor/sub-contractor received from time to time from Logon India Infrastructure Pvt Ltd. Therefore, the said deposits in the bank are not unexplained cash credits within the meaning of section 69A but are the business receipts. It is further submitted that though the assessee did not file his return of income for the said year, as he was suffering continuous losses from the year under appeal onwards and subsequently the assessee had closed his business from AY 2017-18 onwards. It is submitted that the AO in his assessment order admits that receipt of Rs. 39,36,240/-arises out of business which is a part of the deposits in the banks. It is further submitted that while carrying out the said business there are withdrawals by cheque and cash from time to time and as such the same is not unexplained money. It is submitted that section 69A which is a deeming provision deals with unexplained money etc. comes into play only if the following two conditions are fulfilled viz. (i) the assessee is found to be owner of any money bullion of jewellery or valuable articles and (ii) such articles are not recorded in the books of accounts, if any, maintained by the assessee for any source of income. In assessee's case the assessee maintains books of accounts and the said money deposited in the bank is already recorded in his books of accounts. Therefore, section 69A has no application.*
17. *It is submitted that out of the total deposits of Rs. 1,24,69,339/-, the CIT(A) in para 50 of his order dated 18/9/2024 has directed the AO to estimate turnover @8% on receipt of Rs. 39,36,240/- out of the total turnover of Rs. 1,24,69,339/-. However, the CIT(A) in para 48 of his order confirms the total addition (total deposits in the bank) of RS. 1,24,69,339/-.*
18. *It is therefore submitted that out of the total turnover/deposits of 1,24,69,339/- the CIT(A) has already directed the AO to estimate profit @8% of deposits/turnover of Rs. 39,36,240/- It is therefore submitted that on the balance deposits/turnover of Rs. 85,33,099/- the addition be restricted @8% as the balance deposits/turnover also arise out of the business activities of the assessee.”*

8. The Ld. DR, on the other hand supported the order of the Ld. CIT(A).

9. We have heard the Ld. Representatives of the parties and perused the material available on record as well as paper book filed by the Ld. AR on the behalf of the assessee. The facts of the case are not in dispute. The Ld. CIT(A) has upheld the addition of Rs.1,24,69,339/- made by the Ld. AO as unexplained deposits and directed the Ld. AO to estimate the profit on business receipts of Rs.39,36,240/- by taking the NP rate of 8%. The assessee has contended that the receipts of Rs.39,36,240/- is on account of contract receipt on which TDS has been duly deducted u/s 194C of the Act. This fact has not been disputed by the Ld. AO in his remand report. We also observe that the Ld. AO has estimated income @ 25% on ad hoc basis on the entire deposits including the receipts on which the TDS was duly deducted which has resulted into double taxation as contended by the Ld. AR. It is the submission of the Ld. Counsel for the assessee that the assessee is an agriculturist and a real estate broker dealing in lands in and around Uran and Panvel area. During the relevant AY under consideration, the assessee was carrying on the business as contractor/sub-contractor for Logon India Infrastructure Pvt. Ltd. as well as supplier of material of the said company. The total turnover as a contractor/sub-contractor for the said company is Rs.39,36,240/- and the remaining turnover arises out of supply of materials to the said company.

10. We find some force in the arguments of the Ld. AR that the Ld. AO has merely added deposits in the banks ignoring the facts that the said deposits are on account of business receipts as a contractor/sub-contractor received from time to time from Logon India Infrastructure Pvt. Ltd. Further, it is also contended that there is no incriminating material found for the year under appeal. Therefore, we are inclined to accept the claim of the assessee that the said deposits in the bank are not unexplained cash credits within the meaning of section 69A of the Act but are the business receipts of the assessee. Considering the totality of the facts and in the circumstances of the case, in our view, adoption of the profit rate of 10% on the total deposits in the bank account will meet the ends of justice. The Ld. AO is accordingly directed to modify the assessment and estimate the income of the assessee on the total deposits of Rs. 1,24,69,339/- by applying the profit rate of 10%. The grounds of appeal No. 6 to 8 are allowed for statistical purposes.

11. In the result, the appeal of the assessee in ITA No. 2338/PUN/2024 for AY 2014-15 is partly allowed for statistical purposes.

ITA No. 2339/PUN/2024, AY 2015-16

12. The assessee has raised the following grounds of appeal :

- “1. *In the facts and circumstances of the case and in law requisition made u/s. 132A is not legally tenable in law and therefore notice issued u/s. 153A dated 24/11/2018 in pursuance of illegal requisition is void ab-initio.*
2. *In the facts and circumstances of the case and in law the assessment framed in name of Prasad Ramchandra Patil is void ab-initio since the Warrant Of Authorization u/s. 132A was issued in the joint names of Harishchandra Madhukar Shinde and Prasad Ramchandra Patil.*
3. *In the facts and circumstances of the case and in law notice u/s. 153A dated 24.11.2018 is void ab-initio, without jurisdiction and bad in law.*
4. *In the facts and circumstances of the case and in law, approval granted by the JCIT u/s. 153D is bad in law and therefore the assessment is void ab-initio.*
5. *In the facts and circumstances of the case and in law the assessment order passed u/s. 144 r.w.s. 153A is against the law, without jurisdiction and without principle of natural justice and all other known principles of law.*
6. *In the facts and circumstances of the case and in law the learned CIT(A) erred in confirming addition of Rs. 95,44,216/- made by the AO by invoking provisions of section 69A of the Act as alleged unexplained cash deposits.*
7. *In the facts and circumstances of the case and in law the learned CIT(A) erred in rejecting assessee's plea on estimating net profit @8% on the receipt of Rs. 95,44,216/-.*
8. *The assessee craves leave to add, amend, alter, modify, or omit any of the aforesaid Grounds of Appeal as occasion may arise of demand.”*

13. Both the sides are unanimous in stating that the facts and the grounds of appeal in ITA No. 2339/PUN/2024 for AY 2015-16 are identical to the facts and grounds raised in ITA No. 2338/PUN/2024 for AY 2014-15 except the variance in amounts. Thus, in view of the fact that the issue(s) raised in both the appeals are identical and are arising from same set of facts, the finding given by us while adjudicating the appeal in ITA No. 2338/PUN/2024 would *mutatis mutandis* apply to the appeal in ITA No. 2339/PUN/2024 as well. Legal grounds are not pressed by the Ld. AR. Accordingly, the effective grounds of appeal raised by the assessee in ITA No. 2339/PUN/2024 are partly allowed for statistical purposes in the same terms as above.

ITA No. 2340/PUN/2024, AY 2017-18

14. The assessee has raised the following grounds of appeal :

- “1. In the facts and circumstances of the case and in law requisition made u/s. 132A is not legally tenable in law and therefore notice issued u/s. 153A dated 24/11/2018 in pursuance of illegal requisition is void ab-initio.
2. In the facts and circumstances of the case and in law the assessment framed in name of Prasad Ramchandra Patil is void ab-initio since the Warrant Of Authorization u/s. 132A was issued in the joint names of Harishchandra Madhukar Shinde and Prasad Ramchandra Patil.
3. In the facts and circumstances of the case and in law notice u/s. 153A dated 24.11.2018 is void ab-initio, without jurisdiction and bad in law.
4. In the facts and circumstances of the case and in law, approval granted by the JCIT u/s. 153D is bad in law and therefore the assessment is void ab-initio.
5. In the facts and circumstances of the case and in law the assessment order passed u/s. 144 r.w.s. 153A is against the law, without jurisdiction and without principle of natural justice and all other known principles of law.
6. In the facts and circumstances of the case and in law the learned CIT(A) erred in confirming addition of Rs. 59,97,858/- made by the AO by invoking provisions of section 69A of the Act as alleged unexplained cash deposits.
7. In the facts and circumstances of the case and in law the learned CIT(A) erred in rejecting assessee's plea on estimating net profit @8% on the receipt of Rs. 59,97,858/-.
8. The assessee craves leave to add, amend, alter, modify, or omit any of the aforesaid Grounds of Appeal as occasion may arise of demand.”

15. We have heard the Ld. Representatives of the parties and perused the material available on record and the paper book filed by the Ld. AR on behalf of the assessee. We observe that the Ld. AO has completed the assessment u/s 144 r.w.s. 153A of the Act by making addition of Rs.9,97,848/- being deposits in the bank accounts maintained with Axis bank and ICICI bank. He has also made an addition of Rs.50,00,000/- u/s 69A of the Act being unexplained cash found by the police during interception and seized by the Department u/s 132A of the Act. The Ld. CIT(A) has dismissed the legal grounds raised by the assessee challenging the validity of assessment proceedings under section 153A of the Act following his decision for previous AY 2014-15. On merits, he sustained the addition of Rs.9,97,848/- on account of unexplained cash of Rs.50,00,000/- made by the Ld. AO observing that the assessee has owned up the cash of Rs.50,00,000/- but has failed to satisfactorily explain the source of the same with the help of documentary evidences.

16. Referring to para 5 of the copy of the remand report placed at page 22 to 28 of the Paper Book, the Ld. AR reiterated the contention raised before the Ld. CIT(A) and submitted that in the present case, search was conducted on 22.11.2016 and therefore the amended provisions of section 153A inserted by the Finance Act, 2017 will not apply to the assessee's case in hand and thus the entire assessment proceedings in pursuance of invalid notice issued under section 153A is void ab-intio. The Ld. AR then drew our attention to the reply of the Ld. AO on assessee's above contention in the remand report (reproduced below):

"5. In para 13 & 14, the assessee has stated that amendment to section 153A(1) by which after the words "six assessment years" wherever they occur the words "also for the relevant assessment year to years" were inserted by Finance Act, 2017 and the said amendment is applicable as per the forth proviso to said subsection 1 of section 153A for search u/s.132 of requisition u/s. 132A made on or after 2017.

In assessee's case search has taken place on 22.11.2016. Therefore, the amended provisions of section 153A will not apply to the assessee's case. Therefore, the entire assessment proceedings in pursuance of invalid notice u/s. 153A is void ab-initio.

Reply: As per section 153A(b) of the Act, it is mentioned that "assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made". In this case search / requisition of is made on 22.11.20216, therefore, for F.Y. 2016-17 relevant to A.Y. 2017-18, notice u/s.153A was issued. As per section 153A(b) of the Act, six A.Y.s immediately preceding the A.Y. relevant to the previous year in which such search/requisition is made was assessed i.e. from A.Y. 2016-17 to A.Y. 2011-12. Therefore, entire assessment had been done according to section 153A(b) of Act."

17. The Ld. AR then brought our attention to the relevant clause of the Finance Bill, 2017 (reproduced below) and submitted that the present AY 2017-18 under consideration falls outside the scope of the above amended provisions of section 153A of the Act.

"Clause 59 of the Bill seeks to amend section 153A of the Income-tax Act, 1961 relating to assessment in case of search or requisition.

Sub-section (1) of the aforesaid section provides that where a search is conducted under section 132 or requisition is made under section 132A, a notice shall be issued to such person to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made. It also provides for assessment or reassessment of total income of the said years.

It is proposed that issuance of notice and assessment or reassessment under the said section can also be made for an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not beyond ten assessment years from the assessment year relevant to the previous year in which search is conducted or requisition is made, provided that-

(i) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant assessment years;

(ii) such income escaping assessment is represented in the form of asset which shall include immovable property being land or building or both, shares and securities, deposits in bank account, loans and advances;

(iii) the income escaping assessment or part thereof relates to such year or years; and

(iv) search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.”

The Ld. AR therefore requested that the matter may be set aside to the file of the Ld. CIT(A) for fresh adjudication. The Ld. DR had no objection thereto.

18. In view of the above submissions of the Ld. AR, we find some force in the argument advanced by the Ld. Counsel for the assessee that the amended provisions of section 153A of the Act will not apply in the present appeal for AY 2017-18. We observe that the Ld. CIT(A) has not appreciated the facts of the present AY 2017-18 in correct perspective. The assessee had filed all the relevant submissions/details before the Ld. CIT(A) but he failed to take them into consideration while deciding the legal grounds raised by the assessee and simply dismissed the legal issues by passing a cryptic and non-speaking order relying on his decision for earlier AY 2014-15. In this view of the matter, we deem it fit, in the interest of justice, to set aside the impugned order of the Ld. CIT(A) for AY 2017-18 and restore the legal issue(s) raised by the assessee back to his file to decide the same afresh as per facts and laws affording due opportunity of hearing to the assessee in light of the assessee's submissions already on record before him and such further submissions as may be called upon and/or filed by the assessee during the fresh appellate proceedings.

19. Since we have restored the legal issues back to the file of the Ld. CIT(A) for adjudication afresh, we refrain ourselves from deciding the grounds on merits of the case. The grounds raised by the assessee on merits are therefore left open. Having held so, since the present appeal is an old appeal pertaining to AY 2017-18, the Ld. CIT(A) is expected to complete the fresh appellate proceeding pursuant to our direction above preferably within a period of six months from the date of receipt of this order of the Tribunal. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

20. To sum up, all the three appeals of the assessee in ITA Nos. 2338, 2339 & 2340/PUN/2024 are allowed for statistical purposes.

Order pronounced in the open court on 18th February, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Asha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 18th February, 2026.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune