

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 2100/Bang/2025
Assessment Year : 2015-16

The Income Tax Officer, Ward – 4(2)(3), Bangalore.	Vs.	Smt. Uma Rugmini, D3-1083, Shobha Marvella, Green Glen Layout, Bellandur, Bengaluru – 560 103. PAN: APJPR1601Q
APPELLANT		RESPONDENT

Assessee by	:	Shri Sathvik, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	04-03-2026
Date of Pronouncement	:	05-03-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the revenue challenging the order of the NFAC, Delhi dated 16/06/2025 in respect of the A.Y. 2015-16 and raised the following grounds:

“1. Whether the Ld. CIT(A) was right in law in disposing the appeal without verification of details by calling for a remand report from the Assessing Officer?”

2. Whether on the facts and in the circumstances of the case and in laws, the learned CIT(A), NFAC erred in admitting the additional evidences in respect of claim of

deduction u/s 54 and other additions made in the order u/s 147 rws 144 which were not produced before the Assessing Officer during the course of scrutiny proceedings in. contravention to the provisions of sub section (1) of rule 46A of Income tax rules.

3. Whether on the facts and in the circumstances of the case and in law, the learned CIT(A), NFAC erred in admitting the additional evidences in respect of claim of deduction u/s 54 and other additions made in the order u/s 147 rws 144 without recording the reasons for same in contravention to the provisions of sub section (2) of rule 46A of Income Tax Rules,1962.

4. Whether on the facts and in the circumstances of the case and in laws, the learned CIT(A), NFAC erred in admitting the additional evidences in respect of claim of deduction u/s 54 and other additions made in order u/s 147 rws 144 without giving an opportunity to the Assessing Officer for examination of the additional evidences submitted in contravention to the provisions of sub section (3) of rule 46A of Income tax rules”

2. The brief facts of the case are that the assessee is a housewife and not filed her return of income. Based on the information through the INSIGHT PORTAL, the AO had issued notice u/s. 148 of the Act, seeking the details about the financial transactions undertaken by her. Before that, notice u/s. 148A(b) was issued and thereafter an order u/s. 148A(d) was passed on 30/03/2022. Even for the notice issued u/s. 148 of the Act, the assessee had not filed her return of income. Thereafter notices u/s. 142(1) were issued and also a show cause notice was issued. The AO had sought for the details of the interest amount credited into the assessee's bank account, time deposit and also about the amounts credited in her bank accounts viz., Rs. 1,55,87,735/- and Rs. 2,20,00,000/- apart from the cash deposits of Rs. 50,000/-. The assessee had not submitted any details about the various financial transactions reflected in her bank account and therefore the AO had added the said amounts towards her total income. In the show cause notice, the AO had given the clear details about the various financial transactions incurred by the assessee but the assessee had remained silent for the notices issued by the AO. Therefore an assessment u/s. 147 r.w.s.

144 was made and penalty proceedings u/s. 271F and 271(1)(b) and 271(1)(c) were also initiated.

3. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and raised several grounds. The assessee had disputed the addition made on the basis of the sales consideration received on the transfer of long term capital asset and also the consideration given for purchasing the immovable property by stating that properties sold by her is a long term capital asset and not a short term capital asset and out of the sale consideration received by her, she had purchased a new property and the balance sale consideration available with her were deposited into her bank accounts to earn the interest income. The assessee also filed her written submissions and also enclosed the sale deeds executed by her on 19/09/2014 for a consideration of Rs. 2,20,00,000/- and also submitted the copy of the purchase deed of the said property. The assessee also filed the documentary evidence in support of the cost of improvement and finally the assessee arrived the long term capital gains at Rs. 1,74,52,662/- as against Rs. 2,20,00,000/-. The assessee also furnished the purchase deed dated 05/07/2014 for a sum of Rs. 1,71,74,060/- and the documents to show that she spent a further sum of Rs. 9,80,626/- for the interior works. The Ld.CIT(A) considered the said documents and concluded that the assessee has no liability under the provisions of the capital gains since she had invested the capital gains arose from the sale of the property stood in her name as well as in the name of her late husband and therefore she is entitled for deduction u/s. 54 of the Act. Similarly, the Ld.CIT(A) had accepted the investment made in the time deposits as well explained. The Ld.CIT(A) also observed that the interest income disclosed in the statement of income is supported by the 26AS statement and that is the only income taxable in the hands of the assessee but the said amount being less than the statutory limit, the same is also eligible for exemption and therefore the non-submission of the return by the assessee was justified. In the result, the Ld.CIT(A) had allowed the appeal filed by the assessee.

4. As against the said order, the revenue is in appeal before this Tribunal with a delay of 26 days.

5. At the time of hearing, the Ld.DR appearing for the revenue submitted that the assessee had never cooperated with the department and not filed any replies to the various notices issued by the AO and therefore submission of the various documents before the Ld.CIT(A) for the first time that too without mentioning any valid reasons for not producing the said documents before the AO is not in order. The Ld.DR also relied on Rule 46A of the Income Tax Rules in support of his contention. The Ld.DR also filed the copies of the order sheet details and the notice issued u/s. 142(1) of the Act to support his contention that the assessee had not responded to any of the notices and not furnished any details and therefore the order of the Ld.CIT(A) in allowing the appeal filed by the assessee based on the documents produced before him is against the provisions of the Act and prayed to allow the appeal of the revenue.

6. The Ld.AR filed his written submissions and submitted that the documents produced before the Ld.CIT(A) is not the additional evidences but the same are only evidences to substantiate the assessee's claim that the capital gain estimated by the AO and the addition made by the AO are not correct. The Ld.AR further submitted that the revenue had not disputed the material facts but only raised a technical plea that the documents would not be entertained by the Ld.CIT(A) for the first time before him and submitted that when the documents are not doubted by the revenue, the relief granted by the Ld.CIT(A) need not be disturbed on technical grounds. The Ld.AR filed a paper book enclosing several documents which were all produced before the Ld CIT(A) and also the written submissions.

7. We have heard the arguments of both sides and perused the materials available on record.

8. We have perused the copies of the order sheet details as well as the notices issued u/s. 142(1) of the Act and the assessment order from which it is ascertained that the assessee had entered into several financial transactions which were all reflected in her bank accounts as well as in the TDS statements but she failed to declare the said transactions in her return of income. Even though the said transactions are genuine, the AO has no details furnished by the assessee to conclude the transactions are genuine and the assessee had no liability to pay the capital gains tax. Therefore, it is a fact that the assessee had not responded to the notices as well as not furnished any details about the financial transactions and therefore the AO had made the assessment u/s. 147 r.w.s. 144 of the Act.

9. While that being so, the assessee at the time of appeal hearing, had furnished the entire details before the Ld.CIT(A) which were not produced before the AO and which were not considered by the AO, for the first time that too without making an application to admit the additional evidences. The assessee filed the statement of income and expenditure and the other details before the Ld.CIT(A) and on that basis, the Ld.CIT(A) had accepted the case of the assessee and granted the benefit of allowing the appeal.

10. In normal circumstances, the appellate authorities would entertain the evidences filed before them for the first time based on the remand report given by the assessing officers. It means that the Ld.CIT(A) should forward the copies of the documents filed by the assessee before them and the Ld.CIT(A) would sought for the opinion of the AO through the remand report. Therefore the AO would have an opportunity to go through the said documents filed before the appellate authority for the first time and thereafter gave their report to the appellate authorities. To prevent the assessee from filing the documents for the first time before the appellate authorities, Rule 46A has been made in the income tax rules which prohibits the assessee from producing any evidence whether oral or documentary for the first time before the appellate authorities. The said rule has also given some exceptions to this Rule. Rule 46A(2) also gave

liberty to the appellate authorities to admit such evidences by giving the reasons for its admission. Similarly, Rule 46A(3) speaks about the opportunity to be granted to the AO if any evidence has been filed by the assessee. The above said Rule made it clear that the AO should get an opportunity to examine the documents furnished by the assessee which were not produced before him during the assessment proceedings. In the present assessee, the assessee had not responded to any of the notices as well as not filed any documents in support of her case and therefore the AO had made the additions based on the available records. Now the assessee wants to give explanations for the said additions by filing the various documents and in that circumstances, the Ld.CIT(A) ought to have sent the evidences filed before him for getting the report of the AO and thereafter the appellate authority could have decided the issue. All the documents and the explanations now offered by the assessee before the Ld.CIT(A) were not in the knowledge of the AO. Therefore the Ld.CIT(A) ought to have got a remand report from the AO and thereafter proceeded to decide the appeal. The Ld CIT, otherwise, could have remanded the appeal to the AO. Instead of doing that, the Ld.CIT(A) had entertained the said documents and considered the documents and allowed the appeal on the basis of the said documents. The said action is against Rule 46A of the Income Tax Rules. Even though the documents are genuine and the assessee has proper explanations, the assessing officer ought to have put on notice before relying on the said documents by the Ld CIT(A). In fact the Ld CIT has not recorded any reasons for accepting the said documents.

11. We, therefore, of the view that the order of the Ld.CIT(A) is against Rule 46A of the Income Tax Rules and therefore we are allowing the appeal filed by the revenue and remitted this issue to the file of the AO for denovo consideration. The AO is also directed to entertain the documents filed by the assessee in support of their claim and thereafter, after granting an opportunity of being heard to the assessee, the assessment may be concluded in accordance with law.

12. In the result, the appeal filed by the revenue is partly allowed for statistical purposes.

Order pronounced in the open court on 05th March, 2026.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 05th March, 2026.
/MS /

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore