



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.617/LKW/2025
Assessment Year: 2023-24

Sartaj Ahmad Village & Post: Rambhari, Biswan, Sitapur-261201 (UP).	v.	The DCIT/ACIT (Central Circle)-2 Income Tax Office, Lucknow, Uttar Pradesh.
PAN:ACXPA4335P		
(Appellant)		(Respondent)

Appellant by:	Shri Mahendra Kumar, FCA
Respondent by:	Shri R. R. N. Shukla, Addl. CIT(DR)

ORDER

PER ANADEE NATH MISSHRA, A.M.:

(A). This appeal vide I.T.A. No.617/LKW/2025 has been filed by the assessee for assessment year 2023-24 against impugned appellate order dated 27.06.2025 (DIN & Order No.ITBA/APL/S/250/2025-26/1077923825(1) of Ld. Commissioner of Income Tax (Appeals) ["CIT(A)", for short].

(B) In this case, assessment order dated 26.02.2025 was passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 ("Act", for short) whereby the assessee's total income was determined at Rs.63,83,010/- as against returned income of Rs.15,07,010. In the aforesaid assessment order, an amount of Rs.48,76,000/- was added to the assessee's returned income. The aforesaid addition was made on account of cash of Rs.48,76,000/- seized at the time of search u/s 132 of I.T. Act. The assessee filed appeal against the aforesaid assessment in the office of the Ld. CIT(A). Vide impugned appellate order dated 27.06.2025 of the Ld. CIT(A), the assessee's appeal was partly

allowed. The present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 27.06.2025 of the Ld. CIT(A). The Ld. CIT(A) accepted the assessee's contention that the aforesaid amount of Rs.48,76,000/- did not entirely belong to the assessee himself and that in fact the same belonged to assessee as well as to other family members and relatives. The Ld. CIT(A), after examining the explanation furnished, accepted the claim in respect of certain family members and granted partial relief to the assessee accordingly; but sustained an addition of Rs.10,60,000/- out of the total aforesaid amount of Rs.48,76,000/-. A summary of the same is reproduced below, for the ease of reference: -

Name	PAN	Additional Cash In Hand	Deleted by CIT(A)	Addition Sustained by CIT(A)
Smt Zubeda	AAVPB2858G	226000	226000	0
Sh. Sartaj Ahmad	ACXPA4335P	200000	200000	0
Smt Fatima	AAZPF5115E	200000	40000	160000
Sh. Shahnawaj	ALGPA8669N	250000	250000	0
Smt Saima Ajaz	DIAPA9229L	150000	0	150000
Dr. Meraaj Ahmad	AHIDPA1705G	500000	200000	300000
Dr. Sumaiya Rabbani	CKTIPR1181A	500000	50000	450000
Dr. Shahensah	CPWPS5153M	200000	200000	0
M/s Yusra Gas	AAIBFY3451E	750000	750000	0
M/s Z.B. Associates	AACTZ6676K	1900000	1900000	0
TOTAL		4876000	3816000	1060000

(B.1) The relevant part of the impugned appellate order of the Ld. CIT(A) is reproduced below:-

"5.5 During the appellate proceedings the appellant assessee had contended in its reply that the appellant assessee belongs to a large family who stay together in joint system of living. The appellant assessee has submitted that the cash in consideration belong to agriculture income of various family members. The same was from excerpted from Q-61 of the statement given by the appellant during the search proceedings. It is also submitted that the members of the family were having substantial amount of cash in their hands.

5.6 I have gone through the facts and circumstances of the case. It is seen that during the course of search at the residence of the appellant assessee, the cash found by the department, was claimed by persons of searched family as under. -

Name	PAN	Cash in Hand
SmtZubeda	AAVPB2858G	226000
Sh. Sartaj Ahmad	ACXPA4335P	200000
mt Fatima	AAZPF5115E	200000

Sh. Shahnawaj	ALGPA8669N	250000
Smt SaimaAjaz	DIAPA9229L	150000
Dr. Meraj Ahmad	AHDPA1705G	500000
Dr. Sumaiya Rabbani	CKTPR1181A	500000
Dr. Shahensah	CPWPS5153M	200000
Mis Yusra Gas	AABFY3451E	750000
M/s. Z.B. Associates	AACFZ6676K	1900000
Total		4876000

5.6.1 In support to this the appellant had submitted the copies of ITRs of all the family members to substantiate their claim of cash along with their confirmations. In most of the cases the family members were under the scrutiny and in some cases agricultural income and cash-in-hand was accepted by the AO. The person wise claims and their acceptability is discussed as per below.

5.6.2 In the case of Smt. Zubeda Begum, the AO has accepted the agricultural income of Rs. 1,50,000/- and Rs 1,28,000/- for the AY. 2023-24 and 2022-23 respectively. In view of the same, the cash-in-hand claim of Rs. 2,26,000/- is liable to be accepted.

5.6.3 In the case of Shri Sartaj Ahmad, the appellant, the AO has accepted the agricultural income of Rs 1,50,000/- and Rs. 2,00,000/- for the AY 2023-24 and 2022-23 respectively. In view of the same, the cash-in-hand claim of Rs. 2,00,000/- is liable to be accepted.

5.6.4 In the case of Smt. Fatima, the AO has accepted the agricultural income of Rs. 40,000/- for the A.Y. 2023-24 In view of the same, the cash-in-hand only to the extent of Rs. 40,000/- is liable to be accepted.

5.6.5 In the case of Shri Shahnawaj, the AO has accepted the agricultural income of Rs. 1,50,000/- and Rs. 1,50,000/- for the A.Y. 2023-24 and 2022-23 respectively. In view of the same, the cash-in-hand claim of Rs. 2,50,000/- is liable to be accepted.

5.6.6 In the case of Smt. SaimaAjaz, no agricultural income has been shown, also no source of alleged cash or evidences is produced before the AO or the undersigned, therefore, the cash-in-hand of Rs. 1,50,000/- is not accepted.

5.6.7 In the case of Dr. Meraj Ahmad, the agricultural income of Rs. 2,00,000/- has been shown in the A.Y. 2023-24. In view of the same, the cash-in-hand claim of Rs. 2,00,000/- is liable to be accepted and claim of Rs 3,00,000/- is rejected since the same was neither examined by the AO nor any source/ evidence was produced before AO to substantiate it Also no such evidence has been produced before the undersigned.

5.6.8 In the case of Dr. Sumaiya Rabbani, no agricultural income has been shown, also no evidence of this 5 lakh of alleged cash-in-hand has been submitted. Therefore an amount of Rs. 50,000/- is reasonable to be allowed on the basis of the fact that she is a doctor. Accordingly, claim of Rs. 4,50,000/- is rejected.

5.6.9 In the case of Dr. Shahensah, the AO has accepted the agricultural income of Rs. 1,75,000/- for the A.Y. 2023-24. In view of the same, the cash-in-hand of Rs. 2,00,000/- is liable to be accepted.

5.6.10 In the case of M/s Yusra Gas, the appellant has submitted the copy of balance sheet, cash book and cash-in-hand and other documents to substantiate its claim of cash being of business entity. From the documents submitted, the cash-in-hand claim of Rs. 7,50,000/- is liable to be accepted.

5.6.11 In the case of M/s Z.B. Associates, the appellant has submitted the copy of balance sheet cash book and cash-in-hand and other documents to substantiate its claim of cash being a business entity of all the family members. From the documents submitted, the cash-in-hand claim of Rs. 19,00,000/- is liable to be accepted.

6.1 After considering the submissions and as discussed above. The appellant had furnished reasonable explanation and furnished the details/documents to substantiate its claim of agricultural income of the family members and cash-in-hand thereof. Whereas the appellant had failed to justify the agricultural income of few of the family members as discussed in above paras. In view of the same the explanation of the appellant assessee is partly accepted.

6.2 Considering the facts and circumstances of the case, the appellant assessee demonstrated in its reply/documents that the amount of cash found belongs to him and family members. In view of above discussion, the claim of the appellant assessee is partly acceptable. Thus the addition of Rs. 10,60,000/- is sustained in the hands of the appellant and an amount of Rs. 38,16,000/- is hereby deleted. Accordingly, the ground(s) are hereby partly allowed.”

(B.2) The present appeal has been filed by the assessee against the aforesaid impugned appellate order of the Ld. CIT(A) whereby the Ld. CIT(A) sustained the addition of Rs.10,60,000/- of the aforesaid total amount of Rs.48,76,000/-. The only ground of appeal is as under: -

“1. Because the Ld. CIT(A) has erred in sustaining addition of Rs.10,60,000/- made by the AO u/s 69A of the Act out of total addition of Rs.48,76,000/- found at the time of search at the premises of the appellant. Cash in hand claimed to be in possession of Smt. Fatima Rs.1,60,000/- Smt Saima Ayaz Rs.1,50,000/-, Dr. Miyaj Ahmad Rs.3,00,000/- and Dr. Sumaiya Rabbani Rs.4,50,000/- totaling to Rs.10,60,000/- is out of legitimate source of income and addition of Rs.10,60,000/- made u/s 69A is therefore liable to be deleted.”

(B.2.1) In the course of appellate proceedings in Income Tax Appellate Tribunal (“ITAT”, for short), a paper book containing the following particulars was filed from the assessee’s side: -

Sl	Particulars
1.	Copy of ITR & Computation
2.	Copy of notice u/s 143(2) dt. 31.03.2024
3.	Copy of notice u/s 142(1) dt. 30.09.2024 & 16.10.2024
4.	Copy of Replies filed during Assessment Proceeding. dt. S No. A to H dt. 10.08.2024, 25.11.2024, 10.12.2024, 20.12.2024, 26.12.2024, 10.01.2025, 22.01.2025 & 18.02.2025
5.	Copy of Form 35 Alongwith Grounds & Facts with Assessment Order
6.	Copy of Replies filed before CIT(Appeal) dt. 17.06.2025 & 21.05.2025 and including Panchnama & Statements.
7.	Copy of CIT(A) Order

(C) At the time of hearing, the Ld. Authorized Representative ("AR", for short) for the assessee submitted that during search and seizure proceedings u/s 132 of I.T. Act; jewellery and ornaments of family member were inventorized and valued separately; but cash found from different rooms and in the possession of different family members was aggregated together and common inventory for entire cash found, was prepared by the search party of Income Tax Department. He further submitted that the Assessing Officer made the addition of entire amount of cash seized (Rs.48,76,000/-) in the assessee's hand; despite the fact that person wise breakup of ownership of cash among family members was provided to the Assessing Officer along with supporting documents. Moreover, he submitted that the aforesaid amount of Rs. 10,60,000/- did not belong to the assessee but belonged to different family members and close relatives of the assessee. He further submitted that the Assessing Officer did not make any addition in the hands of the assessee's family members during assessment proceedings of the assessee's family members; though the Assessing Officer was the same, and no adverse view was taken by the Assessing Officer in the assessment proceedings of the assessee's family member (Ms. Fatima and Ms. Sumaiya) in respect of cash found/seized at the

time of search. However, an adverse view has been taken in the case of the assessee, despite the fact that the assessee furnished full details and supporting documents regarding person wise break-up of ownership of cash inventorised at the time of search; during the assessee's assessment proceedings; which was also available to the Ld. CIT(A). He further submitted that had a separate inventory of cash been prepared at the time of search in respect of each family member from whose possession cash was found; it would have clearly demonstrated that the ownership of cash pertained to different family members besides the assessee; and also that entire cash was duly explained out of the legitimate sources of the assessee as well as his family members. In view of the foregoing, he submitted that the aforesaid amount of Rs.10,60,000/- should be deleted. The Ld. Departmental Representative supported the order of the Assessing Officer and the impugned appellate order of the Ld. CIT(A).

(C.1) Both sides have been heard. Materials on record have been perused. Search u/s 132 of I.T Act was conducted by Income Tax Department at the assessee's residential premises of the assessee where he lived with his family members. The warrant of search was common for the assessee and in addition, Ms. Shahnawaj Ahmad, Ms. Fatima Ahmad, Ms. Saima Ajaz and Ms. Zubeda Begum. It is not in dispute that a consolidated inventory of cash found at different places during the course of search was prepared by the search party, and no separate inventory was prepared for cash found from the possession of different persons. It is also not in dispute that the assessee provided person wise breakup of ownership of cash among different family members; during the assessee's assessment proceedings, which was also available to Ld. CIT(A) during appellate proceedings. It is further not in dispute that no adverse view has been taken in the

respective assessment proceedings of the aforesaid relatives and family members of the assessee on account of the cash inventorized during the course of search under section 132 of the Act. Further, it is not in dispute that the Ld. CIT(A) has accepted the assessee's contention that the aforesaid amount of Rs. 48,76,000/- did not belong entirely to the assessee but partly to different family members and relatives of the assessee. On this basis, the Ld. CIT(A) partly allowed the appeal and retained the addition only the aforesaid amount of Rs. 10,60,000/-. Therefore, it is not in dispute that the aforesaid amount did not entirely belong to the assessee but belonged partly to different family members of the assessee. In so far as the amount of Rs. 10,60,000/- is concerned, it was open for Revenue Authorities to verify the assessee's explanation (regarding ownership of cash among respective family members of assessee) from the assessment records of the assessee's family members. It was also open for Revenue Authorities to make inquiries during assessment proceedings of the assessee; for example u/s 133(6) of I.T. Act. However, without any such inquiry the addition was made by the Assessing Officer which was also partly sustained by Ld. CIT(A). The consistent stand of the assessee has been that the cash found during the course of search did not belong exclusively to him but, to a substantial extent, belonged to his family members. The assessee also submitted supporting documents to substantiate this explanation. Revenue Authorities have not mentioned any deficiencies or shortcomings in it. Revenue Authorities have also not required the assessee to furnish any further materials in support. Further, as mentioned earlier, they have also not conducted any further inquiries on their own. The obvious inference in these facts and circumstances of the case, is that the addition is premeditated, without any basis, devoid of merit, whimsical and imaginary. In

view of the aforesaid facts and circumstances, the addition of Rs. 10,60,000/- sustained by the Ld. CIT(A) in the impugned appellate order dated 27.06.2025 deserves to be deleted. Therefore, the Assessing Officer is directed to delete the aforesaid amount of Rs.10,60,000/-.

In the result, the grounds of appeal as well as the appeal of the assessee allowed.

Order pronounced in the open Court on 10/03/2026.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

DATED: 10/03/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

By order

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