

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.647/RPR/2025
CO No.25/RPR/2025
निर्धारण वर्ष / Assessment Year : 2014-15

The Income Tax Officer,
Ward-3(1), Raipur (C.G.)

.....अपीलार्थी / Appellant

बनाम / V/s.

Rekha Kukreja
A.R Chandul House,
Shyam Nagar, Telebandha
Raipur-492 001 (C.G.)
PAN: ALOPK2660B

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 16.03.2026

घोषणा की तारीख / Date of Pronouncement : 17.03.2026

आदेश / ORDER**PER BENCH:**

The present appeal preferred by the Revenue and corresponding cross objection filed by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 06.08.2025 for the assessment year 2014-15 as per the grounds of appeal on record.

2. At the very outset, the Ld. Sr. DR submitted that vide Page 10 of the order of the Ld. CIT(Appeals)/NFAC, it is evident that the assessee had submitted additional evidences, for which, remand report had been called for. That though the remand report was called for, however, while calling for the same only submissions of the assessee were placed on record by the Ld. CIT(Appeals)/NFAC but the entire attachments regarding the additional evidences was inadvertently omitted by the Ld. CIT(Appeals)/NFAC. In other words, though the remand report was called for, the A.O did not get any opportunity to verify the additional evidences since the entire annexure for such additional evidences was not provided to him by the Ld. CIT(Appeals)/NFAC. The Ld. Sr. DR had furnished report from the A.O demonstrating these facts. The Ld. Sr. DR had also furnished a copy of the remand report, dated 24.09.2024 wherein, it clearly mentions that the reply of the assessee had been provided, however, the additional evidences

list was never attached while calling for such remand report. The afore-stated documents are extracted for the sake of completeness as follows:-



Government of India
Ministry of Finance: Department of Revenue
Office of the Income-tax Officer, Ward-3(1)
Aayakar Bhawan, Central Revenue Building, Civil Lines, Raipur (C.G.)

F.No. ITO-3(1)/RPR/ITAT/2025-26/

Dated: 14.03.2026

To,

The Addl./Joint Commissioner of Income Tax (Sr. DR),
 Income Tax Appellate Tribunal, Naya Raipur.

Madam,

**Sub:- Submission of report in the case of Smt. Rekha Kukreja (PAN- ALOPK2660B),
 ITA No. 647/RPR/2025 for AY 2014-15- Reg.**

As per telephonic conversation, it is being continued the desired report in the case of Smt. Rekha Kukreja (PAN: ALOPK2660B), ITA No. 647/RPR/2025 for A. Y. 2014-15 submitted by the undersigned on 22.12.2025. Regarding violation of Rule 46A(3) of Income Tax Rules, 1962, it is being submitted that the Ld. CIT(Appeal), NFAC had called remand report from the then AO on the basis of reply of the assessee. During the remand proceedings, it was observed that only the reply was attached and the annexures mentioned in the reply of assessee as the additional evidences was not attached by the Ld. CIT(Appeal) during the calling of remand report. In this regard, the then AO had specially mentioned in para 3.1 of his remand report. A copy of remand report submitted by the then AO is being attached for kind consideration. The details mentioned in Rule 46A(3) of the Rules is being reproduced for ready reference:-

"The [Joint Commissioner (Appeals)] [or, as the case may be, the Commissioner (Appeals)] shall not take into account any evidence produced under sub-rule(1) unless the [Assessing Officer] has been allowed a reasonable opportunity-

- (a) *To examine the evidence or document or to cross-examine the witness produced by the appellant, or*
- (b) *To produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant."*

As the above-mentioned facts, it is clear that the violation of Rule 46A(3) has been made in this case as the Ld. CIT(Appeals) has admitted additional evidences of the assessee but does not give the then AO an opportunity to verify or rebut it.

The desired report is being submitted for kind perusal and further necessary action.

Yours Faithfully,

R. K. Roshan

(Rajesh Kumar Roshan)
 Income Tax Officer-3(1)
 Raipur (C.G.)

Encl.:- As the above.

Similarly, the remand report dated 24.09.2024 is also extracted as follows:

 भारत सरकार / GOVERNMENT OF INDIA वित्त मंत्रालय / MINISTRY OF FINANCE आयकर विभाग / INCOME TAX DEPARTMENT	
To, The Appeal Unit	
Dated: 24/09/2024	DIN & Letter No : ITBA/NFAC/F/24/2024-25/1069058564(1)
Sub:- Remand Report in the case of REKHA KUKREJA (ALOPK2660B) for AY 2014-15 with reference to Appeal Number CIT (A), Raipur- 1/12297/2016-17-reg.	
<p>Kindly refer to the subject cited above. In this regard, it is submitted that your good office has sought report on the evidences furnished by the assessee in your good office, however, on going through the attachment section, it is observed that only the reply has been attached in and the annexures mentioned in the reply has not been attached, therefore, the report is being submitted on the basis of the reply submitted by the assessee and on the basis of material available on record.</p> <p>2. During the year under consideration, the assessee has sold 04 immovable properties on which capital gain was attracted. STCG was attracted on the sale of one immovable property while LTCG was attracted on the sale of other three properties. On perusal of the computation of income of the assessee, it was observed by the AO that the assessee had claimed deduction u/s 54B of the Act on the sale of the said immovable properties. Therefore, the AO requested to furnish the copy of the sale deed of the immovable properties which were sold and regarding which the deduction u/s 54B of the Act was claimed by the assessee. In response, the sale deeds were furnished by the assessee. On going through the said documents, it was observed by the AO that all the properties were sold were situated in the municipal limit and therefore, all the properties were capital asset within the meaning of section 2(14) of the Act. Further, on going through the copy of P-II panchshalakhasra of the land issued, it was also observed by the AO that all the land sold were barren for more than two years and no agricultural activities were performed on the said land for more than two years before its sale. As the deduction u/s 54B of the Act was available is the sale of agricultural land, therefore, after making a detailed discussion in the assessment order, the deduction claimed by the assessee was disallowed and the capital gain was charged the sale of the said lands. The copy of P-II panchshalakhasra of the land issued were also made part of the assessment order.</p> <p>2.1 Now, the assessee before your good office has submitted that the lands sold were used for agricultural purpose as the same were given on regha to farmer and the assessee has furnished the copy of lease deed /rent agreement before your good office which has not been tagged in the attachment section which calling for the report. However, on going through the return of income furnished by the assessee for earlier years to A.Y. 2014-15, it is observed that</p>	
Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in .	

ALOPK2680B- REKHA KUKREJA
A.Y. 2014-15
ITBA/NFAC/IF/24/2024-25/1069058584(1)

no such income has been offered by the assessee in her return of income filed for earlier years, therefore, the contention of the assessee is just an afterthought.

2.2 Further, as per the submission made by the assessee before your good office, it has been submitted that the assessee has furnished the copy of the report submitted by the Patwari to Tehsildar, however, the same has not been attached while calling for the report by this office. However, as per the submission of the assessee has enclosed the copy of the report by patwari to Tehsildar, however, the assessee has not made any discussion regarding the change of details mentioned in the P-II panchshalakhasra.

3. During the course of assessment proceedings, the assessee was provided with ample opportunities which is tabulated as below:

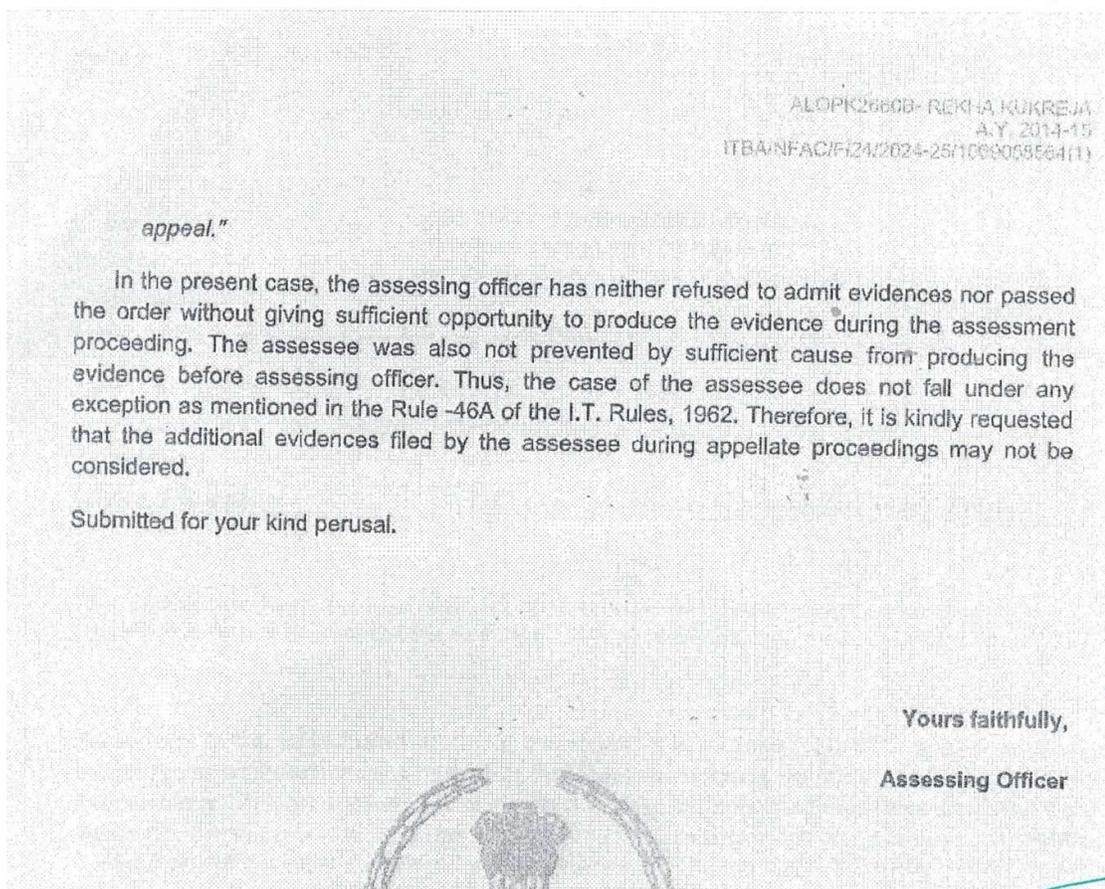
Notice u/s 143(2)	31.08.2015
Notice u/s 142(1)	09.08.2016
Notice u/s 142(1)	31.08.2016
Notice u/s 142(1)	24.10.2016

As evident from the above, the assessee was provided with sufficient opportunities to explain/justify the queries raised by the AO, however, during the course of entire assessment proceedings, the assessee had never stated the fact that the said lands were given on Regha. Also, no plea has been taken by the assessee that the rent/lease agreement was not being located. All the said facts clearly establishes that the contention of the assessee is just an afterthought.

3.1. Further, the Rule 46A of the Income Tax Rule, 1962, laid down the circumstances in which the additional evidences may be considered subjected to the certain exception. The relevant portion of the rule is reproduced below:-

**The appellant shall not be entitled to produce before the [Deputy Commissioner (Appeals)] [or, as the case may be, the Commissioner (Appeals)], any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the [Assessing Officer], except in the following circumstances, namely:—*

- 1. where the [Assessing Officer] has refused to admit evidence which ought to have been admitted ; or*
- 2. where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the [Assessing Officer] ; or.*
- 3. where the appellant was prevented by sufficient cause from producing before the [Assessing Officer] any evidence which is relevant to any ground of appeal ; or*
- 4. where the [Assessing Officer] has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of*



3. Considering the totality of the facts and circumstances, it is clearly evident that though remand report was called for by the Ld. CIT(Appeals) /NFAC, however, attachment containing list of the additional evidences had not been provided to the A.O which means the A.O did not get any opportunity to verify the genuineness of the additional evidences submitted by the assessee. In the interest of substantive justice, we deem

it fit and appropriate as per law to remand the matter back to the file of the Ld. CIT(Appeals)/NFAC with a direction to call for a remand report from the A.O along with the attachments specifying the additional evidences filed by the assessee in terms with Rule 46A(3) of Income Tax Rules, 1962 and the A.O shall furnish such ground report after verifying those additional evidences and thereafter, upon submission of such remand report the Ld. CIT(Appeals)/NFAC shall consider the same as per law while adjudicating the issues on merits. The assessee shall also comply with the hearing notices before the Ld. CIT(Appeals)/NFAC in terms with principles of natural justice. We order accordingly.

4. That even without going into the merits of the matter, on the issue of additional evidences itself in terms with Rule 46A(3) of Income Tax Rules, 1962, the matter is restored to the file of the Ld. CIT(Appeals)/NFAC as per afore-stated directions.

5. In the result, appeal of the Revenue in ITA No.647/RPR/2025 is allowed for statistical purposes as per afore-stated terms.

CO No.25/RPR/2025

6. Since the appeal of the Revenue is restored to the file of the Ld. CIT(Appeals)/NFAC, the corresponding cross-objection filed by the assessee being supportive of the order of the Ld. CIT(Appeals)/NFAC a/w.

other legal issues, is also remanded to the file of the Ld. CIT(Appeals)/NFAC for the sake of completeness in adjudication. Accordingly, the cross objection of the assessee is allowed for statistical purposes.

7. In the combined result, the appeal of the Revenue and the cross objection of the assessee are allowed for statistical purposes as per afore-stated terms.

Order pronounced in the open court on 17th March, 2026.

Sd/-
AVDHESH KUMAR MISHRA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 17th March, 2026.
SB, Sr. PS

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.