

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

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

आयकर अपील सं. / ITA No.1226/PUN/2025
निर्धारण वर्ष / Assessment Year : 2016-17

Amol Bharat Pensalwar, Amol Trading Company, Near Laxminarayan Mandir, Udgir, Latur-413517	Vs.	Income Tax Officer, Ward – 1, Latur
PAN : BQEPP9181N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	N O N E
Department by :	Shri Vishal V Sakore (through virtual)
Date of hearing :	01-04-2026
Date of Pronouncement :	10-04-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 26.03.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**CIT(A)/NFAC**] pertaining to Assessment Year (**“AY”**) 2016-17.

2. None appeared for/on behalf of the assessee when the case was called for hearing on 01.04.2026. The assessee failed to appear even on the earlier dates fixed for hearing on 04.09.2025, 12.11.2025 and 05.02.2026. However, the Ld. DR was present on all the above dates of hearing. Under these circumstances, we deem it fit to adjudicate the appeal with the assistance of Ld. DR and the material available on record.

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

- “1. On the facts and circumstances prevailing in the case, the Hon'ble Commissioner of Appeal (NFAC) Delhi, has erred in confirming the addition of Rs. 2,59,61,659/- u/s 69A made by the ld. AO without verifying the facts and detailed explanation given by the assessee and hence the addition requires to be deleted.
2. On the facts and circumstances prevailing in the case, the hon'ble CIT (A) (NFAC) Delhi, has not considered the ground no. 3 which relates to the issue that the return of income filed u/s 148 has been accepted even though rejected the explanation given by the appellant, responding to the notice u/s 148, the return filed on 10.02.2022, hence, it is requested to accept the return of income and the addition be deleted.

3. *On the facts and circumstances prevailing in the case, the hon'ble CIT (A) (NFAC) Delhi, has erred in confirming the addition of Rs. 2,59,61,659/-, the said amount deposited in cash in Shri Renukamata Co Op Credit Society without applying the real income theory in as much as in the deposit/turnover there is cost embedded therein. Therefore, it is requested that the profit disclosed by the appellant in the books of accounts and computation of income may kindly be accepted.*
4. *On the facts and circumstances prevailing in the case, the Ld AO Ward-1, Latur has reopened the assessment without assuming the jurisdiction in as much as the information in his possession was forwarded by the DI (Investigation wing) which was incriminating in nature, the mandatory action as per law should have been initiated u/s 153C of the IT Act instead of 148 for this AY 2016-17. It is therefore requested the assessment proceeding initiated u/s 148 and consequential order of assessment may kindly be quashed.*

The appellant desire to refer the decision delivered by the honorable ITAT Pune (ITA No. 1075/PUN/2024 AY 2013-14 Dt. 19.09.2024) in the case of Vijaykumar Mangilalji Chordiya.”

4. We have perused the case records. The facts in brief as emanating from the case records are that the assessee is an individual and carrying on business on wholesale and retail business of Bhusar and Kirana Sakri Pend, Rice produce. He filed his return of income on 26.10.2026 for AY 2016-17 declaring income of Rs.3,42,400/-. Based on the information received by the Department that the assessee is having saving account with M/s. Shri Renuka Mata Multi State Urban Co-operative Society Ltd. and had made cash deposit (credit) of Rs.2,59,61,659/- in the said bank account during the AY 2016-17, the case of the assessee was reopened u/s 147 of the Income Tax Act, 1961 **(the “Act”)** by issue of notice u/s 148 of the Act on 31.03.2021. The assessee failed to comply to the said notice u/s 148 of the Act. Subsequent notice issued u/s 142(1) of the Act as well as show cause notice issued u/s 144 also remained un-complied with. However, the assessee submitted few details on 24.02.2022 wherein the assessee furnished copy of return of income filed on 10.02.2022 declaring total income of Rs.8,19,378/- for the AY 2016-17 in response to notice issued u/s 148 of the Act. Accordingly, notice u/s 143(2) of the Act along with copy of reasons for reopening the case was issued to the assessee on 28.02.2022 but the assessee failed to comply. Since, the assessee did not file any relevant details to substantiate his claim a show cause notice was issued to the assessee along with the draft assessment order in response to which, the assessee filed the similar submissions which were already considered and rejected by the Ld. Assessing Officer (“AO”). The assessee was also granted opportunity to explain his case through Video Conference, however, though the assessee attended the Video Conference, he did not produce any concrete documentary evidence and reiterated the submissions

made earlier which were not found tenable by the Ld. AO. The Ld. AO thus completed the assessment u/s 147 r.w.s. 144B of the Act on 25.03.2022 determining the total income of the assessee at Rs.2,67,81,040/- by making an addition of Rs.2,59,61,659/- treating the same as unexplained cash credit u/s 69A r.w.s. 115BBE of the Act, to the returned income of Rs.8,19,378/- as per return filed u/s 148 of the Act.

5. Aggrieved, the assessee challenged the above addition made by the Ld. AO before the Ld. CIT(A)/NFAC and also challenged the assessment by raising certain legal grounds before him. The Ld. CIT(E)/NFAC dismissed the grounds raised by the assessee relating to addition made u/s 69A of the Act by observing as under :

“6.6 By Ground Nos. 6 and 7, the appellant has questioned the legality of the said addition made u/s 69A on two basis: a) that the addition was based on reports/statements of third person without providing the appellant any opportunity to cross-examine them. The said ground was also raised vide ground no. 5 and the same is without any basis as discussed in the preceding para and b) the second basis for questioning the addition is that the same was made without considering the submission of the appellant. It is seen that the appellant has in the course of submission sought to explain the said cash deposit amounting to Rs.2.59.61.659/--as sourced out of cash withdrawals totaling to Rs.60,02,117/- from bank account and balance out of trading activity of various agricultural product. The contention of the appellant regarding the source of the cash deposit is rejected for the reasons given below:-

- *The appellant has claimed that bulk of the cash deposit is arising out of the sales of agricultural commodity as the appellant is engaged in trading activity of the same. It is notable that as against the total cash deposit of nearly Rs.2.60 cr. there is a cash withdrawal of only Rs.60 lacs. If at all the appellant was selling the product in cash and depositing the sale proceeds to the account (as claimed by him), then apparently his purchases would also be in cash and there would be corresponding cash withdrawal of similar amount for purchase of the said commodity. However, a perusal of the account reveals that as against the total cash deposit of Rs.2.60 cr. there is a cash withdrawal of only nearly Rs.60 lacs. Thus, the claim of the appellant that the cash deposit is arising out of the trading activity is difficult to accept.*
- *A remand report was called for regarding the revised submission and the ledger accounts of various parties submitted by the appellant. In the remand report, the AO has highlighted certain facts which go against the claim of the appellant. As per the remand report, the appellant has mentioned five bank account in different banks in the return but has deliberately omitted to mention the detail of the said account maintained by him with Shree Renukamata Multi Estate Urban Co-operative Society Ltd. wherein the said cash deposits were made. It clearly shows that the appellant was well aware of the dubious nature of the entries in the said account and specifically wanted to keep the particulars of the account away from the tax records.*
- *The AO in the remand report has further pointed out that as against the claim of sale of agricultural commodity to explain the deposit of Rs.2.60 cr., the appellant has reported a turnover of only Rs.84,93,470/- in the audit report and hence it is clear that the explanation regarding sale of agricultural commodity in cash to*

explain the cash deposit, is clearly an afterthought and hence the same needs to be rejected.

- *Further, to establish the fact that there was trading in agricultural commodity to explain the cash deposit of Rs.2.60 cr., the appellant in the course of appeal provided additional evidences in the form of ledger accounts of M/s Kaveri Ginnings Mills Pvt. Ltd. and M/s LB Cotton Industry LLP. However, in the course of remand report when the AO asked for additional evidences to support the transaction from the above stated two entities, the appellant did not furnish any supporting document eg. Invoices with respect to transaction with these two vendors, details of purchases etc. The AO in the remand report has disbelieve the genuineness of the said transaction and for the same reasons I tend to agree with the view of the AO that the said transaction have been deliberately created as an afterthought to explain the cash deposit found in the account.”*

6. As regards the legal grounds raised by the assessee before the Ld. CIT(A)/NFAC, the assessee challenged : (i) the legality of the issue of notice u/s 148 and the proceedings carried out thereby; (ii) the assessment/reassessment should have been carried out u/s 153C of the Act and not under section 147/148 of the Act and (iii) the assessment order was passed without providing the copies of the alleged report, statement of third person based on which the addition was made. All the said grounds raised by the assessee were dismissed by the Ld. CIT(A)/NFAC by observing as under :

“6.3 By Ground Nos. 1 to 3, the appellant has questioned the legality of the issue of notice u/s 148 and the proceedings carried out thereby. A perusal of the said grounds reveals that the appellant questions the notice issued u/s 148 dated 31.03.2021 on the ground that the notice in question does not clarify whether the same has been issued for the purpose of assessing the income or reassessing the income. The appellant claims that this being the flaw in the notice, the consequent proceedings carried out a questionable in the eyes of law and hence liable to be quashed. From the records, it is seen that the notice has been issued vide DIN: ITBA/AST/S/148/2020-21/1032002854(1) dated 30.03.2021. Therefore, so far as quoting of DIN is concerned, there is no illegality in the notice. Further, the notice has been issued in pre-devised set format and the AO has no rolled to play in the issue of said notice. So far as issuance and the procedure followed therein is concerned, as stated above the notice contains a valid DIN. Therefore, no infirmity is found in the notice. The appellant has not questioned any irregularity regarding taking of approval etc. and hence the same is rejected.

6.4 By Ground No. 4, the appellant has claimed that since the case is emanating from a search carried out at the premises of Shree Renukamata Multi Estate Urban Co-operative Society Ltd. on 25.05.2017, the assessment/ reassessment, if any, in the case of appellant should have been carried out u/s 153C of the Act and not under section 147/148. The above contention of the appellant is without any basis. A mere perusal of section 153C is required at this point. Section 153C of the Act is reproduced as under:

"Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that.-

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and for the relevant assessment year or years referred to in sub-section (1) of section 153A.”

6.4.1 From the perusal of the sub-section (1) of 153C, it is clear that assessment of only such persons is required to be done under a special procedure laid down u/s 153C, in whose case any money, bullion, jewellery etc. belonging to him is seized or requisitioned or any books of account pertaining to him is seized or requisitioned from a person covered u/s 153A, In the case of the appellant, neither any money, bullion, jewellery or valuable thing was seized nor any of his books were seized or requisitioned. Once, it is seen that the appellant's case does not fall in either of the two categories there is no question of invoking provisions of section 153C of the Act. Even if any information relating to the appellant was sourced from a search action conducted u/s 132, as long as no valuable article or thing or books of the appellant are seized or requisitioned, the reopening of assessment in his case has to be done under the normal procedure of reopening the assessment applicable to all other assessees as defined in section 148 and section 148A of the Act. Accordingly, this ground of appellant fails and is dismissed.

6.5 By Ground No. 5, the appellant claims that the assessment order was passed without providing the copies of the alleged report, statement of third person based on which the addition was made it is notable that in one of the earlier submissions the appellant had claimed that he was not provided copy of the reasons for reopening the assessment which was subsequently not pressed. The said fact establishes that the appellant was provided a copy of the reasons on the basis of which assessment was reopened and the other incidental facts relating to the same. Further, nowhere in the assessment order, the AO has relied upon any statement or any report, against the appellant, the denial of which could have vitiated the legality of these proceedings. As per the second para of the assessment order, it is clearly mentioned that the assessment was reopened on the basis of fact that the appellant held an account in Shree Renukamata and had deposited cash amounting to Rs.2,59,61,659/- in the said account. Thus, it is clear that the only material/information on the basis of which, the assessment was reopened was the account statement of the appellant and hence there is no question of providing any statement or any report to the appellant, as the same were not relied upon by the AO and was in no way connected to the reopening of the assessment. So far as the account statement of the said account is concerned, the appellant has nowhere in the assessment or in the appellate proceedings, ever denied about the existence of the said account or the existence of the said credit entries in the account. In fact, throughout his submission he has accepted those entries and has sought to explain the same by providing various explanations. In view of the same, this ground is without any merit and dismissed.”

7. Perusal of the ordersheet entries reveals that this appeal was fixed for hearing several times but no one appeared for and/or on behalf of the assessee nor any adjournment application has been filed by the assessee and therefore, the findings of the Ld. CIT(A)/NFAC has remained un-controverted by the assessee. We find that the Ld. AO has made the impugned addition as the assessee failed to produce any concrete documentary evidence in support of his

claim. The Ld. CIT(A)/NFAC has dismissed the appeal of the assessee both on the legal grounds as well as the grounds on merits raised by the assessee for the reasons reproduced in the preceding paragraphs. Since, nothing has been produced before us to take a view contrary to the view taken by the Ld. CIT(A)/NFAC, we uphold the order of the Ld. CIT(A)/NFAC. The grounds raised by the assessee are accordingly dismissed.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 10th April, 2026.

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

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th April, 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, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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