

**THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH "E" NEWDELHI**

**BEFORE SHRI SUDHIR KUMAR, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.1104/Del/2025
Assessment Year: 2017-18**

Dy. Commissioner of Income Tax A-2D, Sector- 24, Noida Uttar Pradesh- 201301	Vs.	Ankur Mittal A-156, Alpha-1 Greater Noida- 201306
PAN No. ACGPM0100R		
(Appellant)		(Respondent)

**AND
C.O. 96/Del/2025
(IN 1104/DEL/2025)
Assessment Year: 2017-18**

Ankur Mittal A-156, Alpha-1 Greater Noida-201306	Vs.	Dy. Commissioner of Income Tax A-2D, Sector-24, Noida Uttar Pradesh-201301
PAN No. ACGPM0100R		
(Appellant)		(Respondent)

Department by	Ms. Amisha S. Gupt, CIT(DR)
Assessee by	Sh. Rakesh Kumar Khiwani, CA

Date of hearing	28.10.2025
Date of pronouncement	12.12.2025

ORDER

PER SUDHIR KUMAR JM:

The Revenue has filed the appeal and Assessee has filed the Cross Objection challenging the order dated 23-12-2024 passed by National Faceless Appeal Centre Delhi (in short NFAC) passed assessment order dated 27-03-2023 of the Assessing Officer for A.Y. 2017-18 under the section 143(3) r.w.s 263 of the Income Tax Act, 1961(In short “the Act”).

2. The revenue has raised the following grounds in appeal:

1. Whether, the Ld. CIT(Appeals) /NFAC has erred in law and on facts by deleting the aggregated additions of Rs.7,46,102/- as unexplained money deposited in bank accounts of the assessee with Canara Bank and Syndicate Bank u/s 69A of the Act and Rs.12,12,46,867/- as unexplained expenditure u/s 69C of the Act for purchases made by the assessee in cash, without appreciating the facts mentioned by the AO in the assessment order.

2. That the order of CIT(Appeals) being erroneous in law and facts deserves to be set aside/cancelled and the order of the AO to be restored.

3. That the above grounds are without prejudice to each other and appellant craves leave to add or amend any other

more ground of appeal as stated above as and when needs for doing so many arise.

3. The brief facts of the case are that the assessee is an individual having business income from proprietary concern-M/S Agarwal Food Grains and Share of net profit from partnership firms. The assessee filed his return of income for A.Y. 2017-18 on 31-10-2017 by declaring total income of Rs.21,49,960/-. The case of the assessee was selected for scrutiny and there after assessment was framed u/s 143(3) of the Act vide order dated 16-12-2019 accepting the return of income filed by the assessee. Subsequently, the case of the assessee was re-opened and assessment order was passed u/s 147 r.w.s. 143(3) of the Act by the Jurisdictional Assessing officer by disallowing of claim of exempt LTCG of Rs.47,52,507/- and addition of Rs.95,050/- u/s 69C of the Act. The assessee has filed the appeal, which is pending before the NFAC.

4. The Ld. PCIT, Noida passed an order u/s 263 of the Act on 27-03-2022 by setting aside the initial assessment order passed u/s 143(3) of the Act and directed the JAO to revise the assessment order after making enquiry on the following points:

(i) Examine the claim of applicability of Rule 6DD of the Income Tax Act to make enquiry with Agriculture Produce Marketing Committee by calling for purchase details as well as ledger account of Agriculture Produce Marketing Committee.

(ii) To call for bills/vouchers in support of cash purchase made by the assessee.

- (iii) To co-relate the banking transactions of M/S Agarwal Food Grain with purchase of food grains in all bank accounts maintained by the assessee.*
- (iv) To examine the source of deposits in the bank accounts as mentioned above.*

The, JAO completed assessment after making the following additions:

- (i) Cash deposits u/s 69A of the Act Rs.7,46,102/-*
- (ii) Cash purchase u/s 69C of the act Rs.12,12,46,867/-*

5. Being aggrieved with the order of the AO, the assessee filed the appeal before the Ld. CIT(A), who vide its order dated 23-12-2024 partly allowed the appeal of the assessee. Aggrieved the order of the Ld.CIT(A), the Revenue is in appeal before the tribunal. The assessee also filed the cross objection in this appeal.

6. The Ld. DR submitted that the assessee has shown purchases amounting to Rs.22,26,31,211/- from unregistered suppliers, out of which Rs.12,12,46,887/- was paid in cash above Rs.20,000/-.The assessee has failed to prove that this payment falls under Rule 6DD of Income tax Rule1962. The assessee has not provided the identity in respect of purchases made from the farmers and their details. The assessee has failed to prove that the transactions were genuine. She relied upon the order of the AO.

7. The Ld. AR of the assessee submitted that the assessee has explained the sources of the expenditure and the cash purchased was reflected in the regular books of accounts. The learned AO, without complied the

direction of the Ld. PCIT made the addition. The AO has not conducted the any enquiry from Agriculture Produce Marketing Committee to ascertain the genuineness of purchase. The assessee had filed Form 6R in support of purchases made by him in APMC- Mandi. The assessee proved that the Mandi Shulk and Vikash Shulk on the purchase was paid by the assessee. He further submitted that addition was rightly deleted by the Ld.CIT(A). The Ld. CIT(A) has observed in the order as under:

4.3. Ground No. 4& 5

4.3.1 Vide ground no. 4, the appellant contends that addition of Rs.12,12,46,867/- u/s 69C made by the AO is in complete contrast with direction of Ld. PCIT set out by him in order u/s 263 of the Act which was on the issue of applicability of Rule 6DD of the Rules and section 40A(3) of the Act. The appellant contends that section 69C is not applicable in his case as the source of the expenditure (Cash Purchase) of Rs.12,12,46,867/- is explained by the appellant and the cash purchases are reflected in regular audited books of accounts.

4.3.2. Vide ground no. 5, the appellant contends that exception provided in Rule 6DD of the Rules is applicable in his case in respect of cash purchases and section 40A(3) is not attracted.

It is a fact on record that Ld. PCIT directed the AO to-

- Examine the claim of applicability of Rule 6DD of the Income Tax Act to make enquiry with Agricultural Produce Marketing Committee by calling for purchase details as well as ledger account of Agricultural Produce Marketing Committee.*
- To call for bills/vouchers in support of cash purchase made by the assessee.*
- To co-relate the banking transactions of M/s Aggarwal Food Grain with purchase of food grains in all bank accounts maintained by the assessee*
- To examine the source of deposits in the bank accounts as mentioned above (para 4.2 of the order)*

4.3.3 From the assessment record, it is clear that the AO has not followed the direction of Ld. PCIT so far as issue of applicability of Rule 6DD of the Rules on cash purchases is concerned. The AO has not made any enquiry from Agricultural

Produce Marketing Committee (APMC) to ascertain the genuineness of cash purchase from farmers by the appellant. From the order u/s 263 of the Act it is clear that the Ld. PCIT never doubted the genuineness of purchase per se. Ld. PCIT only directed the AO to examine the applicability of Rule 6DD of the Rules in respect of cash purchases. In this case the Ld. AO has travelled beyond the directions contained in order u/s 263 of the Act as far as addition of Rs.12,12,46,867/- is concerned.

4.3.4 In the case of Rajendra Kumar Mishra v. Assistant Commissioner of Income Tax, Circle-47, Kolkata, ITA No.1340/Kol/2023, the issue before Hon'ble Kolkata ITAT were as per follows:

“(2) That on the facts and in the circumstances of the case, Learned CIT (Appeals) [NFAC] erred in affirming the undue action done by the authority below during the course of fresh assessment proceeding to traversed beyond the scope of direction issued by the Ld. Principal Commissioner-16, Kolkata in his order dated 28/12/2018 passed under section 263 of I.T. Act, 1961, and thus made his assessment 'order dated 28/12/2019 defective and invalid.

.....

5. The moot point asserted by the Ld. Counsel for the assessee is that Ld. AO has digressed from the directions given by the Ld. PCIT in the revisionary order wherein the issue was only in respect of loans of Rs.2,67,000/- taken and repaid in cash for which the treatment given by the Ld. AO in the assessment made u/s. 143(3) was not in accordance with the provisions of section 269SS and 269T. In the effect giving assessment order, the Ld. AO has misconstrued the directions and has gone ahead in making enquiries on the entire amount of unsecured loans of Rs.32,99,000/- reported by the assessee in his tax audit report and audited financial statement. He thus, submitted that the issue before the AO in the impugned assessment was limited in scope, for which all the relevant documentary evidence were on record. However, to further corroborate the same, assessee has furnished additional evidence by resorting to Rule 29 of the ITAT Rules.”

In this case, Hon'ble Kolkata ITAT held as per follows:

“7. We have considered the rival submissions made by the parties. We are in agreement with the submissions made by the Ld. Counsel of the assessee that the issue is related to an amount of Rs.2,67,000/- of unsecured loan taken and given

in cash in excess of Rs.20,000/- during the year which ought to have been treated in accordance with the provisions of section 269SS and 269T of the Act as directed Ld. PCIT while setting aside the original assessment completed u/s. 143(3) of the Act. From the perusal of the orders of the authorities below, we note that they have been passed ex parte or in absence of adequate documentary evidence which could not be placed by the assessee before them. Further, assessee has now placed on record, certain documentary evidence by taking resort to Rule 29 of the ITAT Rules.

7.1. Considering the facts as discussed above and the material on record, we find it proper to remit the matter back to the file of Ld. AO for verification of the documents placed before us under Rule 29 of the ITAT Rules. We also direct the Ld. AO to comply with the directions given by the Ld. PCIT in the revisionary order u/s. 263 which clearly specifies about the misconstruction done by the AO in respect of amount received and payment of loans in cash in excess of Rs.20,000/- so as to adopt right course of action to impose penalty/s. 271D and 271E of the Act, as contained in para 8 of the said order, extracted above. Accordingly, grounds taken by the assessee are allowed for statistical purposes. Needless to say that assessee be given reasonable and adequate opportunity of being heard.”

From the above judgement of Hon'ble Kolkata ITAT it is clear that noncompliance with the directions given by Ld. PCIT in the revisionary order u/s 263 on the part of AO is not permitted under law.

In the instant case, the AO has not complied with the directions of Ld. PCIT while passing the order u/s 147 r.w.s. 263 of the Act and thus the action of the AO as far as it relates to addition of Rs.12,12,46,867/-made u/s 69C is liable to be cancelled and the addition of said Rs. 12,12,46,867/- is liable to be deleted.”

8. In the instant case the assessee filed the copy of certificate from the Krishi UtpadanMandi, Dadri to show that the Mandi Shulk and Vikash Shulk was paid on the purchase made in APMC Mandi during the relevant year. From the order of the Ld. CIT(A),reveals that the assessee furnished Form 6 R in support of purchase made by him in APMC-Mandi. The total purchase was made from farmers in APMC –

Mandi which is a government body. The purchase made by the assessee cannot be doubted. The Ld. CIT(A), has examined the issue in the correct prospective and rightly deleted the additions made under section 69C of the Act, made by Assessing Officer. The reasoning and findings of the Ld. CIT(A), while granting relief is on proper appreciation of law expounded by the judicial dicta. We do not find any reasons to interfere with the findings of the Ld. CIT(A). The appeal of the Revenue liable to be dismissed and dismissed accordingly.

Cross Objection No. 96/Del/2025

9. In the cross objection has filed on the following grounds:

(i) That the Ld. Commissioner of Income Tax(NFAC) has erred in sustaining the addition of Rs.1,16,000/- out of total addition of Rs.7,46,012/- made in the assessment order u/s 69A of the cash deposited during the year. The addition sustained of Rs.1,16,000/- needs to be deleted, it is prayed.

(ii) That the Ld. Commissioner of Income Tax(NFAC) has erred in upholding the Revisionary proceedings u/s 263 by the Principal Commissioner of Income Tax NOIDA, as the assessment order u/s 143(3) dated 16-12-2019 was neither erroneous nor prejudicial to the revenue as having been framed after substantial inquiry on the cash purchases and granting exemption u/s 40A(3) read with rule 6DD(e). It is therefore prayed that the Revisionary order u/s 263 needs to be quashed and as a result the assessment order framed u/s 143(3)/263 dated 27-03-2023 be also quashed.

(iii) That the assessee begs permission to amend alter modify change or taken additional grounds.

10. The Ld. AR of the assessee submitted that the assessee has filed the details of the bank accounts. The assessee had deposited the cash in

the bank account which was duly explained by the assessee. He prayed that the addition confirmed by the Ld. CIT(A) be deleted.

11. The Ld. DR has relied upon the order of the AO and stated that the assessee had deposited the cash of Rs.7,46,012/-, the two banks account. The assessee has failed to explain the cash deposit. We have heard the parties and perused the material available on record. The Ld. CIT(A) has observed in his order as under:

“4.4.2 From the computation of Income for the relevant year it is seen that the assessee has offered Rs.1,38,500/- as rental income and the appellant claims to have received rent of Rs.60,000/- in cash. Hence, the source of cash of Rs.60,000/- can be accepted as explained. Cash Receipt of Rs.4,00,000/- is claimed to be cash withdrawal from proprietary concern of the appellant and the same can be accepted. From the computation of income filed, it is seen that the appellant has reported agricultural income of Rs. 2,88,026/- for the year. The appellant has claimed a source of Rs.6,500/- on account of agricultural income which can be accepted. The appellant claims cash receipt of Rs.18,000/- but no nature/head of income of said receipt of Rs.18,000/- is furnished and hence, the said amount of Rs.18,000/- can not be treated as valid source of cash receipt. The appellant has claimed opening cash in hand of Rs.50,000/- as on 01/04/2016 which can be accepted considering the financial status of the appellant. Under the circumstances, Rs.1,16,320/-(Rs.98320/-+Rs.18000/) sayRs.1,16,000/-is treated as unexplained cash liable to be added u/s 69A of the Act.”

12. In the present case the assessee in his written submission submitted before, the Ld. CIT(A) has accepted that addition to the extent of Rs.1,00,000/- be sustained. From the perusal of the order of the Ld. CIT(A), reveals that after examining the details of the income given by the assessee the addition of Rs.1,16,000/- was restricted under section 69A of the Act. We do not find any reasons to interfere the findings of the Ld. CIT(A), who has examined the issue in details and

made the addition of Rs.1,16,000. The ground No- 1 as raised by the assessee is decided accordingly.

13. Ground No.-2 : This ground not pressed by the Ld. AR, hence decided against the assessee. The cross objection filed by the assessee is liable to be dismissed and dismissed accordingly.

14. In the result, the appeal of the Revenue as well as Assessee's Cross Objection both are dismissed in the aforesaid manner.

Order pronounced in the open court on 12/12/2025.

Sd/-

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER
Dated: 12th December,2025
"SR BHATANGGAR"

(SUDHIR KUMAR)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Delhi