

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, CHANDIGARH

PHYSICAL HEARING

HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपीलसं. / ITA No.875/CHANDI/2025

(निर्धारणवर्ष / Assessment Year: 2011-12)

Shri Naresh Kumar (Prop. Yashoda Khal Bhandar) New Grain Market, Narwana, Jind Haryana – 126116	बनाम/ Vs.	ITO Ward-2 Kothi No. 1234, Urban Estate Jind, Haryana - 126109
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAWPK-4608-G		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Nikhil Goyal & Sh. Ashok Goyal (Advocates) – Ld. ARs
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	07-04-2026
घोषणाकीतारीख / Date of Pronouncement	:	15-04-2026

आदेश / O R D E R

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 06-05-2025 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 143(3) r.w.s. 147 of the Act on 14-12-2018. The sole issue that falls for my consideration is confirmation of addition of Rs.30,70,400/-.
2. The Ld. AR advanced legal arguments assailing reopening of the assessment and also advanced arguments on merits. The Ld. Sr. DR

also advanced arguments in support of orders of lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

3. Pursuant to receipt of information from Pr. DIT (Inv.), Chandigarh that certain cash was deposited in seven different bank accounts held by five concerns of Shri Anil Kumar Soni in PNB, Charkhi Dadri Road / Kurukshetra branch from 10-11-2016 to 25-11-2016, the case of the assessee was reopened. Shri Anil Kumar Soni stated that he was frontman for Shri Vipin Garg who was found to be an entry provider giving entries against commission of 0.5 to 2 percent. Shri Vipin Garg also stated that no genuine business was carried out by his concerns. He accepted to have received cash from various entities in old currency notes against which he had given RTGS entries to the beneficiaries.

4. It was noted by Ld. AO that the assessee received amount of Rs.30.40 Lacs as RTGS from the firm of Shri Vipin Garg (M/s Shree Krishna Traders, Charkhi Dadri) between the period 11-08-2010 to 24-03-2011. Since the information was received that the said amount was received from a person who was involved in providing accommodation entries, the case of the assessee was reopened and a notice u/s 148 was issued on 29-03-2018. The original return of income as filed by the assessee on 28-09-2011 was processed u/s 143(1). However, the assessee did not file any ITR in response to notice u/s 148. The assessee was required to furnish the details of transactions of Rs.30.40 Lacs. The assessee did not file the information as called for

by Ld. AO. In the result, Ld. AO made addition of Rs.30.40 Lacs alongwith estimated commission of 1% which came to be Rs.30,400/-. The total addition thus made by Ld. AO aggregated to Rs.30,70,400/-.

5. Upon further appeal, the Ld. CIT(A) justified the reopening on the ground that information was received from investigation wing which could be held to be tangible material. On merits, the assessee stated that the RTGS receipts represent realization from debtors and income out of such receipt was already shown by way of sale of goods. However, Ld. CIT(A) held that since Shri Krishna Traders was proved to be a shell entity, the submissions of the assessee were rejected and the assessment was confirmed. Aggrieved, the assessee is in further appeal before Tribunal.

6. It emerges that the assessee was engaged in the business of cottonseed, oil and *Khal* during this year. The return of income was duly filed by the assessee on 28-09-2011 (kept on page No.1 of the paper-book) and the books of the assessee were duly audited u/s 44AB. The assessee made sale of goods to Shree Krishna Traders for Rs.30.40 Lacs and the sale consideration was received through banking channels. The sales have duly been offered to tax. The sales are evidenced by sales invoices as placed on record. The stock has moved out of the books of the assessee which is evidenced by copies of stock register as placed on record. However, the case was reopened and notice u/s 148 was issued by Ld. AO on 29-03-2018. The copy of Form for recording the reasons for initiating proceedings u/s 147 and obtaining approval of appropriate authority has been

kept on Page No.37 of the paper-book. In the said proposal, Ld. AO has stated that no voluntary return of income has been filed by the assessee. The same is clearly a wrong fact since the return of income had already been filed by the assessee on 28-09-2011 which was processed u/s 143(1). The copy of reasons has been placed on Page No.48 of the paper-book. In the said reasons, Ld. AO has alleged that the assessee did not file his return of income. It was stated that information was received that Shri Vipin Garg had received cash from different beneficiaries after 08-11-2016 and deposited the same in his bogus bank accounts against commission. The assessee had also taken such entry and deposited Rs.30.40 Lacs during this year. A letter was issued to the assessee which was not replied to by the assessee. Therefore, the cash deposited by the assessee in the above stated bank account was to be treated as income from undisclosed sources. There was escapement of income in terms of clause (a) of Explanation 2 to Sec.147 and therefore, the case was to be reopened. Considering these facts, approval has been granted by appropriate authority to reopen the case of the assessee.

7. Upon perusal of the recorded reasons, it could be said that the reopening was not only on incorrect facts but Ld. AO invoked the provisions of clause (a) of Explanation 2 to Sec.147 which is specifically applicable only in case where no return of income is furnished by the assessee. This explanation provides that it would be a deemed case of escapement of income where no return of income had been furnished by the assessee although his total income or the

total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax. The said explanation is clearly not applicable to the case of the assessee. It could further be seen that based on facts of cash deposits during demonetization period, it has been alleged that the transactions of earlier year are also bogus. The demonetization has happened on 08-11-2016 and the impugned transactions have happened much earlier between the period 11-08-2010 to 24-03-2011. There is no concrete information that such transactions were also bogus in nature. In the absence of any evidence corroborating the allegation of Ld. AO and considering the fact that the reopening has been done on wrong facts, the reopening is liable to be quashed. There is no cash deposit by the assessee as alleged in the reopening reasons. The impugned transactions represents sales turnover of the assessee which has already been offered to tax by way of credit to Profit & Loss Account. Therefore, the impugned addition, on merits, could also not be sustained for want of corroborating evidences. For all these reasons, the impugned addition as made by Ld. AO stand deleted.

8. The appeal stand allowed.

Order pronounced on 15th April, 2026.

-Sd-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

AS

Dated: 15-04-2026

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH