

**IN THE INCOMETAX APPELLATE TRIBUNAL “D” BENCH, KOLKATA**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER  
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.2151/Kol/2025  
(Assessment Year 2017-18)**

**Rakhi Mondal,**

GC Mondal, Ahmadpur,  
Kagas Road, Ahmadpur,  
Birbhum - 731201

[PAN: BRQPM2781L]

..... **Appellant**

**vs.**

**Assessment Unit,  
Income Tax Department,**

NFAC, Room No. 401,  
2<sup>nd</sup> Floor, E-Ramp,  
Jawahar Lal Nehru Stadium,  
New Delhi – 110003

..... **Respondent**

**Appearances by:**

Assessee represented by : Dilip Chatterjee, AR

Department represented by : S.B. Chakraborty, Addl. CIT, Sr. DR

Date of concluding the hearing : 21.01.2026

Date of pronouncing the order : 17.02.2026

**ORDER**

**Per Rajesh Kumar, AM**

The present appeal filed by the assessee arises from order dated 22.07.2025 passed u/s 250 of the Income Tax Act, 1961 (hereafter referred to as “the Act”) by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter referred to as “the Ld.CIT(A)].

2. Ground No. 1 is general in nature and does not require any specific adjudication.

Ground No. 2 to 3 are against the order of Ld. CIT(A) upholding the assessment which has been invalidly reopened and is not in accordance with the provision of section 149(1)(b) of the Act.

3. The facts in brief are that the assessee has not filed return of income for the assessment year 2017-18. The notice u/s 148 was issued on 21.03.2024 after passing the order u/s 148A(d) of the Act dated 21.03.2024. The assessee in compliance filed return of income declaring total income at Rs. 2,00,130/- on 23.03.2024. Admittedly, the case of the assessee was reopened after a period of more than 3 years from the end of the relevant assessment year and has obviously falls u/s 149(1)(b) of the Act as mandated by Finance Act, 2023 w.e.f. 01.04.2023 which deals with the time limit for issuance of notice u/s 148 of the Act. During the assessment proceedings, the assessee filed all the documents as called for by the AO. Finally, the addition was made by the AO of Rs. 1,86,04,040/- as unexplained money u/s 69A of the Act on the ground that the assessee could not prove the source of credit entries in the bank account with Axis Bank and thus failed to discharge the onus by non-filing the required explanation with the documentary evidences.

4. The Ld. CIT(A) in the appellate proceedings also dismissed the appeal of the assessee on this issue without giving any specific finding on the ground raised by the assessee.

5. After the hearing the rival submission and perusing the material available on record, we find that that admittedly the case was opened beyond a period of three years from the end of relevant assessment year and therefore, in terms of section 149(1)(b) of the Act there are certain conditions which are to be fulfilled before issuance of any notice u/s 148 of the Act. For the sake of ready reference, the provision of section 149 of the Act as mandated by the Finance Act, 2023 w.e.f. 01.04.2023 are extracted below:

*“Finance Act, 2023, w.e.f. 1-4-2023 read as under:*

*“149. Time limit for notice- (1) No notice under section 148 shall be issued for the relevant assessment year-*

*(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);*

*(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of*

*(i) an asset;*

*(ii) expenditure in respect of a transaction or in relation to an event or occasion or*

*(iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.”*

6. A perusal of the above section clearly reveals that the case of the assessee falls under clause (b) of section 149(1) which provides that the case can be reopened under this clause if the income chargeable tax is represented in the form of asset or expenditure or entry in the books of account which has escaped assessment which amounts to or likely to amount to Rs. 50 lacs or more. Further, we note that in the present case none of the above conditions has been specified. Therefore, the reopening of assessment is bad in law and cannot be sustained as we find from the copy of notice u/s 148A(d) dated 16.02.2024 which is available at page no. 3 to 94 of the paper book which states that the assessee has done certain financial transaction of Rs. 1,85,95,000/- during financial year 2016-17 and the assessee is in the category of non-filer of return is high risk non filer. Therefore, show cause notice issued to the assessee before passing order u/s 148A(d) of the Act and thereafter after passing order u/s 148A(d) of the Act, reopening was done. In our opinion, the said reopening has been done without meeting the specific requirement as provided u/s 149(1)(b) of the Act. Therefore, we quash reopening of assessment. Ground No. 2 to 3 are accordingly allowed.

7. So far as the merits of the case are concerned, we note that the assessee is carrying on the business of purchase and sale of agricultural produce such as paddy/grain from the agriculturists/farmers against the cash payment which is practice followed in the normal course in the remote area. We also note that the Ld. CIT(A) on page no 26 para 13 noted that the assessee operating from the remote village, state of West Bengal where the business, infrastructure and normal compliance norms such as digital invoices, transportation documents and audit practice may not be as the robust. Since the Ld. CIT(A) accepted the business of the assessee and has not doubted the activities of the assessee. The Ld. CIT(A) estimated the profits by applying rate of 15% on the total turnover of Rs. 1,98,43,794/- and estimated income at Rs. 29,76,569/-. In our opinion, the estimation of income without any basis and without rejecting the books of accounts u/s 145(3) of the Act is wrong as has been held by the Hon'ble Apex Court in the case of PCIT Vs. RG Builder Engineer Limited (2018) 99 taxman.com 284 (SC), wherein the Hon'ble Court as held that no adhoc estimation can be done where the books are not rejected. Therefore, Ground Nos. 3,4,5,6 and 7 are also allowed.

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

Order pronounced on 17.02.2026

Sd/-  
**(Pradip Kumar Choubey)**  
**Judicial Member**

Sd/-  
**(Rajesh Kumar)**  
**Accountant Member**

Dated: 17.02.2026  
AK, Sr. P.S.

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches

