

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, E: NEW DELHI**

**BEFORE SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.- 5276/Del/2025  
[Assessment Year: 2017-18]**

Assistant Commissioner of Income Tax, Circle-13(1), Room No. 316A, CR Building, New Delhi-110002.	Vs	Deepak Gupta, M-78, Connaught Place, New Delhi-110001.
		<b>PAN- AEHPG4727M</b>
Revenue		Assessee

Assessee by	Shri Anil Jain, CA & Shri Santosh Gupta, CA
Revenue by	Ms. Ankush Kalra, Sr. DR

<b>Date of Hearing</b>	<b>24.03.2026</b>
<b>Date of Pronouncement</b>	<b>30.04.2026</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the Revenue is directed against the dated 29.06.2025 of National Faceless Appeal Centre (NFAC) [hereinafter referred to as the 'Ld. CIT(A)] arising out of the Assessment Order dated 16.12.2019 passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'the Act') by the Deputy

Commissioner of Income-tax, Circle-14(2), New Delhi (hereinafter referred to as the AO) pertaining to Assessment Year (A.Y.) 2017-18.

2. Brief facts of the case: The original return of income was e-filed on 31.07.2017 vide ack. No. 991835800310717 by the assessee declaring income at Rs. 6,50,920/- which was processed u/s 143(1) of the Income-tax Act, 1961. Subsequently, the case was selected for complete scrutiny through CASS due to the following reason:-

1. High risk transactions (PAN reported in STR)

2.1 The AO issued a show-cause notice to the assessee vide letter dated 09.12.2019. the relevant extract of the said order is reproduced as under:

*“4. The reason for selection of your case is "High risk transactions (PAN reported in STR)". To ascertain this fact, 360 degree profiling was checked. On perusal of STR (Suspicious Transaction Report) data available in your ITS, your PAN has been quoted in account no. 06860100007528. As per the information, you are the chairman in the account and Rs. 494.69 lacs were deposited during period 01.04.2016 to 30.12.2016 and Rs. 75.67 lacs in account till 30.12.2016 after demonetization of Rs. 500 & Rs. 1000 declared by GOI on 08.11.2016. In view of this, you are requested to kindly explain the source of cash deposited. In case of no reply and insufficient submissions the same may be added back to your income as unexplained credits u/s 68 of the Income-tax Act, 1961. You are also show cause why this amount should not be disallowed and added back to your income.”*

2.2 The AO to ascertain the amount of cash deposited issued, notice u/s 133(6) of Income-tax Act, 1961 on 09.12.2019 to Bank of Baroda, Pusa Road Branch with a request to provide bank account statements of all bank accounts maintained in your bank by Sh. Deepak Gupta, (PAN: AEHPG4727M) from 01.04.2016 to 31.03.2017.

The bank in its reply provided bank account statements of two account numbers, one is in the name of Sh. Deepak Gupta-06860100006648 and the other is in name of M/s KCC Institute of Technology & Management-06860100007528. On perusal of the bank statements of these accounts, it was found that cash of Rs. 1,83,500/- was deposited in the bank account of Sh. Deepak Gupta, and cash of Rs. 494.69 lacs was deposited in the account of M/s KCC Institute of Technology and Management. Further, notice u/s 133(6) of Income-tax Act, 1961 was issued to Bank of Baroda, Pusa Road Branch for KYC documents of above two accounts. The bank in its reply provided the requisite information. On perusal of account opening form provided by the bank, it was observed that the assessee is operating as Joint Holder of account no: 06860100007528 in the name of M/s KCC Institute of Technology & Management. Further, The AO noted that in STR, it was mentioned that the assessee was operating the said account 06860100007528 as Director and Authorized Signatory.

2.3. From the above facts and circumstances, the AO noted that it was clear that the assessee's PAN is updated in the account 06860100007528 of M/s KCC Institute of Technology & Management. The AO observed that it was pertinent to mention here that every person is different and has its unique identity and unique PAN and M/s KCC Institute of Technology & Management is a different person and should have its own PAN, which has to be mentioned in its bank account numbers. The AO noted

instead of PAN of M/s KCC Institute of Technology & Management, the assessee's (Individual) PAN was mentioned in its accounts, which led him to have reasons to believe that the assessee had deliberately provided PAN no. in the account 06860100007528 of M/s KCC Institute of Technology & Management. The AO noted in its response to the show-cause notice the assessee submitted that the bank account in Bank of Baroda in the name of M/s KCC Institute of Technology and Management does not pertain to him and this account belonged to Deepak Gupta Education Trust which was being assessed at Circle Exemption 1(1), New Delhi vide PAN No. AAATD9552E.

2.4 Further, the assessee submitted a copy of the bank statement of F.Y. 2016-17 and copy of the bank account in the books of Deepak Gupta Education Trust and submitted that the assessment of Deepak Gupta Education Trust was also made under scrutiny for A.Y. 2016-17 and a copy of the assessment order was also enclosed.

2.5 However, the AO on perusal of the assessee's reply, noticed that the assessee had neither provided ITR of Deepak Gupta Education Trust for A.Y. 2017-18 nor any confirmation that the cash deposited was duly disclosed in ITR for A.Y. 2017-18 of Deepak Gupta Education Trust. The AO noted that by not providing any such details, assessee's failed to discharge its onus of proving the genuineness of the cash deposited and made an addition of Rs. 4,94,69,000/- u/s 68 of the Act. The relevant extract of the said order is reproduced as under:

*“8. It is pertinent to mention here that the purpose and intent of the Government behind demonetization was to eradicate the Black Money from the system and bring out the hoarders of such money. When the announcement had been made on 08.11.2016 that Rs.500 and Rs. 1000 ceases to be a legal tender, the traders or businessmen ought not to have accepted the same from the general public in the garb of sales or realization of debts. The very act of the assessee in depositing the SBNs on various dates above clearly prove beyond doubt that either the same were his unaccounted income that was lent earlier and realized at the latter date or had involved in converting SBNs into legal tender and thereby earn huge commissions or by way of sales realization. In all possibility, the very act of the assessee cannot be subscribed or supported to as the same is against the intention and the very purpose for which the ban on SBNs were clamped by the Government of India. Thus, you are not allowed to accept the old demonetized currency i.e. Rs. 500/- and Rs. 1000/-.*

*9. In view of the above, the cash deposits of Rs. 4,94,69,000/- remained unexplained u/s 68 of the Income-tax Act, 1961 and added to the income of the assessee and tax is to be calculated in accordance with the section 115BBE of the Income-tax Act. 1961. This is the unaccounted money of the assessee and assessee has under reported its income in consequence of misreporting thereof to the extent of Rs. 4,94,69,000/- .”*

3. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) has deleted the addition and allowed the appeal of the assessee. The relevant extract of the order of the Ld. CIT(A) is reproduced as under:

*“ 7. I have examined the assessment order, the submissions made by the appellant and the judicial decisions cited by the parties. All grounds of appeal have been discussed together. This appeal is directed against the assessment order dated 16.12.2019 passed by the Deputy Commissioner of Income-tax, Circle-14(2), New Delhi, under section 143(3) of the Act for the Assessment Year 2017-18. The appellant had e-filed its return of income on 31.07.2017 declaring total income of 6,50,920/.*

*8. The case was selected for scrutiny through CASS on account of high-risk transactions, including reporting of the appellant's PAN in a Suspicious Transaction Report (STR). After considering the facts gathered during assessment proceedings. the Ld. Assessing Officer concluded the assessment by determining the total income at 5,01,19,920/-, which included an addition of 4,94,69,000/- under section 68 of the Act. treating the same as unexplained cash deposits.*

*9. The Ld. Assessing Officer observed that the appellant's PAN was linked with a bank account bearing number 06860100007528 held with Bank of Baroda, Pusa Road Branch. This account, as per the STR and bank records, was reportedly operated by the appellant as an authorized signatory and Chairman. A cash deposit of 4,94,69,000/- was made into this account during the demonetization period. The Assessing Officer*

concluded that the said deposit was not properly explained by the appellant, and therefore, treated the same as the appellant's unexplained income under section 68 of the Act.

10. During the appellate proceedings, the appellant submitted that the bank account in question does not belong to him in his individual capacity. The account stands in the name of M/s KCC Institute of Technology and Management, which is a constituent unit of Deepak Gupta Education Trust-a separate legal entity regularly assessed under PAN AAATD9552E with the DCIT, Exemption Circle 1(1), New Delhi. The appellant submitted that he is only an authorized signatory of the said bank account in his capacity as trustee/director of the Trust and has no proprietary rights over the funds therein. The appellant further submitted that the PAN was linked with the account merely for KYC compliance and not for ownership of funds.

11. In support of his claim, the appellant produced various documents including a sworn affidavit from the Managing Trustee of Deepak Gupta Education Trust confirming ownership of the bank account, the audited financial statements of the Trust for the relevant year reflecting the said bank account, and the scrutiny assessment order of the Trust for A. Y. 2017-18. The appellant also submitted a copy of the bank statement of account no. 06860100007528 along with its corresponding ledger account in the books of the Trust to substantiate that the deposits were made from fee collections from students and fully recorded in the books of the Trust.

12. It is evident from the materials on record that the bank account into which the cash was deposited does not belong to the appellant. It is held and operated by M/s KCC Institute of Technology and Management, a unit of Deepak Gupta Education Trust. The fact that the appellant is merely an authorized signatory, without beneficial ownership cannot by itself attract addition under section 68. The Assessing Officer has not brought any material on record to suggest that the cash deposits originated from the undisclosed income of the appellant or that the appellant derived any personal benefit from the same.

13. It is also noted that the same cash deposit has been subject to addition in the assessment of Deepak Gupta Education Trust for the same assessment year: thereby leading to the possibility of double taxation. The principle of taxing the right person in the right hands must be upheld. Further, the presumption against the appellant, solely because of his signatory status, is misplaced in the absence of any corroborative evidence establishing ownership or control over the funds beyond a representative capacity.

14. Therefore, I find considerable merit in the submissions of the appellant. The addition of 4,94,69,000/- made under section 68 of the Act in the hands of the appellant is not legally sustainable. The appellant has adequately discharged the burden of proof by submitting documentary evidence establishing that the funds in question were neither received nor owned by him. Rather, they are accounted for in the books of a separately assessed charitable trust, which has already been subjected to scrutiny.

15. In view of the above findings, the addition of 4,94,69,000/- made under section 68 of the Act is hereby deleted.”

4. Aggrieved with said order, the Revenue filed an appeal before us on the following grounds of appeal:

*“1. That the learned CIT(A) erred in law and on facts in deleting the addition of Rs. 4,94,69,000/- made u/s 68 of the Income Tax Act, 1961, by not appreciating the fact that the assessee's PAN was explicitly linked to the bank account and the assessee was operating as "Chairman" and "Authorized Signatory" of the said account, thereby exercising significant control.*

*2. That the learned CIT(A) erred in law and on facts in holding that the assessee had discharged the onus cast upon him u/s 68 of the Act, especially concerning the source of cash deposit. The CIT(A) ignored that the addition was made primarily on the ground that the account formally belonged to a Trust, without verifying the underlying transaction for the source of cash in the Trust's hands and the complete disclosure in its return for A.Y. 2017-18.*

*3. That the learned CIT(A) failed to appreciate that the primary information (STR, PAN linkage, operational control) pointed towards the assessee's involvement with the unexplained cash, 3 and the formal account ownership by a Trust does not automatically absolve the individual assessee, particularly when the AO found reasons to believe the assessee had "deliberately provided PAN.*

*4. That the learned CIT(A) erred in granting relief solely based on the plea of "double taxation" without comprehensively examining the finality of the assessment in the Trust's case and without concluding that the beneficial ownership of the funds definitively rested with the Trust and not the individual assessee.*

*5. Whether on the facts and circumstances of the case and law the Ld. CIT(A) erred in decision of the Hon'ble High Court of Jharkhand in the case of M/s Rajmeet Singh v ITO (160 mann.com83) (2024) in which it is held that WHARE assessee has deposited cash in bank but the source of the income in the case of the assessee had not been proved and assessee identity/creditworthiness/genuineness of transaction, impugned addition on account has failed to prove of cash deposit was justified.*

*6. Whether on the facts and circumstances of the case and law the Ld. CIT(A) erred in CIT v. P. Mohankala (2007) 291 ITR 278 (SC): Reiterated that the assessee has to establish the identity of the creditor, the genuineness of the transaction, and the creditworthiness of the creditor. In this case, the onus shifts to the source of cash deposit.*

*7. Whether on the facts and circumstances of the case and law the Ld. CIT(A) erred in N.R. Portfolio Pvt. Ltd. (2013) 35 DTR 126 (Del): Held that the assessee has to prove the identity, genuineness of transactions, and creditworthiness of the investors/lenders/assessee.*

*8. The appellant craves leave to add, amend and alter the grounds of appeal during appellate proceedings.”*

5. During the hearing before us, the ld. Sr. DR supported the order of the AO and the grounds of appeal:

6. On the other hand, the ld. AR supported the order of the Ld. CIT(A) and filed a written submission. The relevant extracts of the same are reproduced as under:

*“a. Copy of Affidavit of Sh. Deepak Gupta managing trustee of M/s Deepak Gupta Education Trust stating that the bank account in the name of M/s KCC Institute of Technology and Management account No. 06860100007528 in Bank of Baroda belongs to Deepak Gupta Education Trust PAN AAATD9552E assessed at Exemption Circle 1(1) New Delhi. (pg. 36 of PB)*

*b. Copy of statement of affairs of Deepak Gupta Education Trust for the year ending on 31.03.2017 wherein under the annexure details of the balances with scheduled banks, the above said bank account is duly reflected. (pg. 42 of PB)*

*d. Copy of the bank statement for FY 2016-17 of account no. 06860100007528 in the name of KCC Institute of technology & management which is a unit of M/s Deepak Gupta Education Trust and copy of the above said bank account in the books of Deepak Gupta Education Trust for FY 2016-17. (pg 49-216 and 217 to 241 of PB)*

*In view of the above facts, it is quite clear the Ld. AO has erred in making the addition in the hand of the assessee on account of cash deposited in the bank account 06860100007528 in the name of KCC Institute of technology and Management which is a unit of M/s Deepak Gupta Education Trust and thus this bank account belongs to Deepak Gupta Education Trust and the Ld. CIT(A) has correctly deleted the addition. Further it is also submitted that the assessing officer of M/s Deepak Gupta Education Trust has also considered the cash deposit of Rs. 4,94,69,000/- in the above said bank account no. 06860100007528 of KCC institute of Technology and management as the cash deposit of M/s Deepak Gupta Education Trust. And finally the A.O of the M/s Deepak Gupta Education Trust has made the addition of Rs. 7,29,59,500/- in the case of Deepak Gupta Education Trust for A/Y 2017-18. Thus in view of the above, the Ld. CIT(A) has rightly deleted the addition made by the Ld. AO of Rs. 4,94,69,000/- on account of cash deposited made during the FY 2016-17 in bank account no. 06860100007528 treating this bank account as pertaining to Deepak Gupta Education Trust. The facts of the case of Hon'ble Jharkhand High Court in the case of M/s Ramjeet Singh vs. ITO (160 taxmann.com 83) (2024) are not applicable with the facts of the present case. As in this judgment the assessee has not maintained the books of accounts and also has not proved the source of the cash deposit made by him. But in the present case the cash deposit of*

*Rs. 4,94,69,000/- made in the bank no. 06860100007528 during the demonetization period belongs to M/s KCC Institute of Technology and Management which is a unit of Deepak Gupta Education Trust. Further it is also submitted that this cash deposit has been duly accounted for in the books of account of M/s Deepak Gupta Education Trust which can be verified from the financials of the institute and also from bank account in the books of Deepak Gupta Education Trust which was filed before the Ld. AO as well as before the l.d. CIT(A). Accordingly, it will be observed by your kind honor that in this scenario the facts of the judgment of Hon'ble Jharkhand high are totally different from the facts of the present case and the Id. CIT(A) has rightly deleted the addition made by the ld. AO.*

*With regard to contention of the Ld. AO that the assessee has to establish the identity of the creditor, the genuineness of the transaction, and the creditworthiness of the creditor but this is not required in the present case as the above said bank account with Bank of Baroda belongs to M/s KCC Institute of Technology and Management- a unit of Deepak Gupta Education trust. Further this amount has been duly disclosed in the financial statements of M/s Deepak Gupta Education Trust.*

*In view of the above judgement of CIT vs. P. Mohankala (2007) 29 ITR 278 (SC) and in N.R. Portfolio Pvt. Ltd. (2013) 35 DTR 126 (Del) are not applicable in the present fact of the case.*

7. We have heard both the parties and perused the material available on record.

In this case, it is undisputed fact that the bank account in the name of M/s KCC Institute of Technology and Management account No. 06860100007528 in Bank of Baroda belongs to Deepak Gupta Education Trust PAN AAATD9552E assessed at Exemption Circle 1(1) New Delhi. The AO has added the cash deposit of Rs. 4,94,69,000/- in the hands of the assessee in respect of this bank account no. 06860100007528 in Bank of Baroda. In this regard, the affidavit dated 05.12.2019 of the assessee, stating that the said account does not belong to him and he was operating the above account as the authorized signatory of M/s Deepak Gupta Education Trust. The relevant extract of the said affidavit is reproduced as under:

“I, Deepak Gupta S/o Late. Sh. Gyan Parkash Gupta, R/o M-78, Connaught place, New Delhi-110001 do hereby solemnly affirm and declare on oath as under:

1. That I am the Managing Trustee of M/s Deepak Gupta Education Trust (PAN: AAATD9552E) being assessed at Exemption Circle 1(1), New Delhi.
2. That the above said trust is having a Bank account with Bank of Baroda, Karol Bagh Branch in the name of M/s KCC Institute of Technology and Management.
3. That the above said Bank account does not belong to me.
4. That I am operating the above said bank account as authorized signatory of M/s Deepak Gupta Education Trust.”

7.1 Further, in this regard, the copy of statement of affairs of Deepak Gupta Education Trust for the year ending on 31.03.2017 wherein under the annexure details of the balances with scheduled banks, the above said bank account is duly reflected. (pg. 42 of PB), as reproduced below also supports the above claim of the assessee.

DEEPAK GUPTA EDUCATION TRUST SCHEDULES TO ACCOUNTS	
<b>Details of Balances with Scheduled Banks</b>	
Bank of Baroda Current A/c- 489	93,690
Bank of Baroda Saving (A/c no. -0686010007348)	78,577
SBI (A/c no. 32001262583)	44,562
HDFC Current A/c	86,252
Kotak Mahindra Bank	15,03,262
FDR With Bank of Baroda	63,10,000
Bank of Baroda-7528	(42,55,731)
UBI-50019	1,381
UBI-50023	1,90,714
Bank of Baroda (A/c no.-7529)	(3,76,683)
UBI Scholarship A/c- 50048	76,790
UBI (A/c no.-50053)	1,00,894
	<b>38,53,706</b>
<b>Details of Accounts Payables</b>	
Ajay Chawla & Associates	4,816
Advik Compware Private Limited	1,13,922
Ashok Choudhary (Cont.)	10,070
Ashok Mandai	76,515
Bell Granito Ceramica Limited	30,476
AIUB MIA	59,888
Ajay Kumar	2,643
CHANDESHWAR YADAV	1,64,389
Akcraft	6,59,277
Emjrent India Solution	10,752
Aman Cooler	12,750
Harshan Singh	2,02,079
Himithu Adiwasi	26,661
Rizzen	6,63,462
KCC SOFTWARE LIMITED	7,63,40,512
Raj Nursery	1,01,067
Pure A Water Technology	20,000
Kansal Pipes	3,000
Parkash Munda	37,025
Mangla Ram Chaudhary	1,03,078
MD ABSAR ALAM	1,41,289
MD ANWAR	1,15,897
MD HUSAIN	9,350
Nav Durga Grantle	75,909
Noman	1,773
Nafeesh Ahamad	18,175
Mohd.Nizam Alam (Cont.)	13,992
KP Glass Work	1,980
PARBAT LAL	22,987
Mohd Munif	88,457
PF ENGINEERING WORKS	14,439
RAJ INTERIOR DECORATOR	1,29,216

7.2 Further, the assessee has also brought on record, the assessment order passed u/s 143(3) of the Act by the ACIT (Exemption) 1(1), Delhi, vide order dated 29.12.2019 (placed at page no. 244-253 of the Paper Book) in the case of Deepak Gupta Education Trust, wherein it is submitted that the amount added in the case of the assessee on account of cash deposit has also been added in the said trust. Be that it may be, the fact remains that the bank account in which the cash deposit has been made, and which is the basis for making addition in the case of the assessee does not belong to the assessee. Further, no collaborative evidence has been brought on record by the AO to show that it represents the undisclosed income of the assessee. The case law relied upon by the Revenue are distinguishable on facts in this appeal and are not applicable to the facts of the present case. In the given facts of the case, we agree with the findings of the Ld. CIT(A) in deleting the addition of Rs. 4,94,69,000/-. However, we also make it clear that we affirm the order of the Ld. CIT(A) on the ground that the bank account in which the cash deposit has been made, and which is the basis for making addition in the case of the assessee does not belong to the assessee and further, no collaborative evidence has been brought on record by the AO to show that it represents the undisclosed income of the assessee. Thus, in view of the above, the Ld. CIT(A) has rightly deleted the addition made by the Ld. AO of Rs. 4,94,69,000/- on account of cash deposited made during the FY 2016-17 in bank

account no. 06860100007528 treating this bank account as pertaining to Deepak Gupta Education Trust. However, we again make it clear that we have not made any comments on the merits of the addition of the said cash deposits in account no. 06860100007528 in the hands of M/s Deepak Gupta Educational Trust. With the above observations, grounds of appeal filed by the Revenue is dismissed.

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

Order pronounced in the open court on 30.04.2026.

Sd/-  
**[RAJ KUMAR CHAUHAN]**  
**JUDICIAL MEMBER**

Sd/-  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Dated- 30.04.2026.

Pooja.

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi,