

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B' CHANDIGARH

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 447/CHD/2025
निर्धारण वर्ष / Assessment Year. : 2017-18

The ITO, Nahan.	Vs	Shri Raj Kumar, Near Delhi Gate, Opp. Gurudwara, Nahan, Distt. Sirmour (HP).
स्थायी लेखा सं./PAN NO: BOSPK7875L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : None
Revenue by : Shri Vinod Kumar Chaudhary, Sr.DR

Date of Hearing : 12.11.2025
Date of Pronouncement : 27.01.2026

ORDER

PHYSICAL HEARING

PER RAJ PAL YADAV, VP

The Revenue is in appeal against the order of the Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 29.01.2025 passed for assessment year 2017-18.

2. The Revenue has taken four grounds of appeal, however, its grievance revolves around a single issue, namely, the Id.CIT (Appeals) has erred in deleting the addition of Rs.1,95,61,240/-.

3. The brief facts of the case are that assessee did not file his return of income for assessment year 2017-18 u/s 139 of the Income Tax Act. The AO found a huge cash deposit in the bank account of the assessee, hence, in a very brief ex-parte order, he has made an addition of Rs.1,95,61,240/-.

4. On appeal, the Id.CIT (Appeals) has deleted this addition by recording following finding :

“6. The appellant has raised 5 grounds of appeal, all relating to the additions made in the assessment order u/s 147 r.w.s 144 r.w.s 144B dated 14.03.2022. During the course of appellate proceedings, the appellant has filed his written submissions. The gist of the appellant's submissions is that he was a distributor of mobile recharge with Airtel and his business activity was to provide recharge service to various retailers and collects cash from them. After the collection of cash/cheques from various retailers, the collected amount was deposited into the bank & thereafter was immediately transferred to Airtel to purchase recharge again. The appellant received a commission on the said recharge. Further, the appellant has stated that the buyers buy recharge coupons in cash & online and he did not allow any credit facility to the buyers and therefore, no data of the persons from whom cash was received is maintained. However, the purchase of recharge coupons from Airtel is itself primary evidence to prove the activity of the appellant. The appellant has stated that the bank statement is independent evidence about the activity of the appellant. Further, the appellant has stated that on similar issue in his case, assessment for AY 2015-16 was reopened and his explanation was accepted in assessment order u/s 147 rws 144B dated 05.12.2023 by making no addition on the said issue. The appellant has submitted the copy of agreement between Airtel Ltd & Wmseff, cash book, bank statements, Debtors Ledger Account-Airtel along with his written submissions in support of his claims.

7. The written submissions of the appellant have been perused. On verification of the bank account statement of State Bank of India bearing A/c No.65181903091, it is found that the assessee had made cash deposits during the year under consideration and also debited/transferred amounts on various dates to Bharti Airtel Ltd. Further, it is seen that, in the appellant's case no addition was made in the assessment order u/s 147 rws 144B dated 05.12.2023 for AY 2015-16 on the same issue. From the Bank A/c statement prima facie it

is seen that the appellants claim that he was regularly crediting his account with the cash collected from the retail-vendors on sale of coupons and debiting the same amount to Bharti Airtel Ltd for buying recharge coupons on a regular basis is found to be acceptable. Therefore, the addition made u/s 69A of Rs.1,95,61,2407- as Unexplained Money u/s 69A of the Act being the cash deposits is not warranted. Therefore, the AO is directed to delete the said addition. Accordingly, the grounds of appeal raised by the appellant are treated as Allowed.

8. *In the result, the appeal filed by the appellant is allowed.”*

5. In response to the notice of hearing, no one has come present on behalf of the assessee.

6. With the assistance of ld. DR, we have gone through the record carefully. A perusal of the order of ld.CIT (Appeals) would reveal that assessee was an authorized distributor of mobile recharge coupon with Airtel company. He has filed his Agreement with Bharti Airtel Ltd. and explained that whatever cash he has received, was deposited in the bank account. Thereafter, it was transmitted to the company through account payee cheque. He has earned only a small amount of commission income. The ld.CIT (Appeals) has verified this aspect and accepted the contention of the assessee. The ld. DR submitted that assessee did not submit before the AO these materials and therefore, ld.CIT (Appeals) ought to have not accepted the version of the assessee. We do not find force in this contention because the charge against the assessee was to explain the source of deposits. The ld. AO has not

conducted any enquiry. He has simply made the additions. Had the AO perused the bank statement, then he could realize where the amount is going. The amount was debited through account payee cheque to Bharti Airtel Ltd. He could write letter to Bharti Airtel. But, instead of conducting judicious enquiry which ought to have been conducted by him, he ignored all principles of framing an ex-parte assessment order u/s 144 of the Income Tax Act and simply made the addition. The AO was not only acting as a prosecutor but he was an adjudicator also. He miserably failed in his duty while framing the assessment. The ld. First Appellate Authority has appreciated the facts and circumstances in right perspective and observed that this cash available in his account did not belong to him. Rather it was collected in a fiduciary capacity under the Agreement with Bharti Airtel. Therefore, we do not find any error in the order of the ld.CIT (Appeals). This appeal is rejected.

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

Order pronounced on 27.01.2026.

Sd/-

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
VICE PRESIDENT

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar