



2026:AHC:216043-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

INCOME TAX APPEAL No. - 208 of 2026

The Pr Commissioner Of Income Tax-1 And
Another

.....Appellant(s)

Versus

Mahendra Kumar Jain

.....Respondent(s)

Counsel for Appellant(s)	:	Amit Mahajan
Counsel for Respondent(s)	:	

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Sri Amit Mahajan, learned Standing Counsel for the revenue and Sri Suyash Agarwal, learned counsel for the assessee.

2. Present income tax appeal has been filed against the order dated 20.02.2026 passed by the Income Tax Appellate Tribunal Agra Bench, Agra in ITA No. 537/Agr/2025 for the Assessment Year 2017-18, whereby the Tribunal has dismissed the departmental appeal filed against the order of the National Faceless Appeal Centre ('NFAC', in short), dated 10.09.2025. Thereby, the assessee's appeal filed against the reassessment order dated 06.03.2025, for the assessment year in question, has been allowed and the addition Rs. 2,73,65,027/- has been deleted.

3. The undisputed facts are that the assessee was running a sole propriety concern engaged in jewellery trade. In the previous year, relevant to the assessment year in question, according to the assessee, he also inherited his ancestral business run in the name and style M/s Devi Abhushan Bhandar. Resultantly, the proprietor's capital in that business also came to be added to the total proprietor's capital. Correspondently, increase of Rs. 2,78,82,287/- was witnessed in the proprietor's capital. Undeniably, upon return filed by the petitioner, he was subjected to regular assessment proceeding under Section 143(3) of the Income Tax Act, 1961. Though, questioned on the issue of increase of proprietor's capital, no addition was made on that count, in the original order. Accordingly, the assessee was assessed at the returned income Rs. 18,30,550/-

4. Later, on audit objection, reassessment proceedings were opened. The addition to the proprietor's capital was disallowed and assessed as undisclosed income. In doing that, the Assessing Authority considered the facts that the petitioner had not filed revised return and had not adduced any documentary evidence to establish increase of proprietor's capital, occasioned by merger of the two businesses.

5. In such facts, the present appeal has been pressed on following question of law:

"Whether the order of ITAT is perverse in as much as in deleting the addition of Rs. 2,73,65,027/- made u/s 68 of the Act, by accepting the massive increase in the proprietor's capital as a mere 'book entry' arising from an alleged merger of personal and inherited business accounts despite the assessee had not disclosed the same anywhere prior to this merger, without requiring the assessee to discharge his primary onus of substantiating the genuineness, source, and actual introduction of such capital into the proprietorship with authentic corroborative evidence?"

6. Having heard learned counsel for the parties and having perused the record, we find no good ground to entertain this appeal. Though technical deficiency has been claimed by the revenue, it cannot lost sight that in the reassessment proceedings, the primary burden was on the revenue - to establish that any income had escaped at the hands of the assessee. Here occasioned by the increase in proprietor's capital by Rs. 2,73,65,027/-, allegation was made that the said amount had escaped assessment. No positive evidence or material was brought on record by the revenue and in fact no positive material may exist as may indicate that the amount of Rs. 2,73,65,027/- was not the proprietor's capital. Neither the books of accounts of M/s Devi Abhushan Bhandar were examined nor its returns have been considered as may have led to an interference that the amount Rs. 2,73,65,027/- was not available by way of proprietor's capital, in that business. Further, the revenue has not doubted the fact of merger of the two pre-existing business.

7. Unless, *prima facie*, material may have existed with the Assessing Authority to indicate that amount of Rs. 2,73,65,027/- was not available by way of proprietor's capital in the business of M/s Devi Abhushan Bhandar or

unless the Assessing Authority had material to disbelieve the primary claim made by the assessee that his pre-existing sole proprietary business was merged with his ancestral business with M/s Devi Abhushan Bhandar, it did not become open to the Assessing Authority to reassess the petitioner, for that amount.

8. The Assessing Authority could not adopt a line of reasoning that the assessee may not have adduced enough evidence in the course of original assessment proceedings, in support of his claim. That line of reasoning may be available in proceedings initiated under Section 263 of the Income Tax Act, 1961 but not in a reassessment proceeding. Qualitatively, in a reassessment proceedings, for any addition to be sustained, the revenue is burdened to establish - on the strength of material available with it, that any income has escaped assessment, either by non-disclosure or wrong disclosure. Here, neither there is any material available the Assessing Authority to establish that there is non-disclosure nor there is a wrong disclosure, proven by the revenue.

9. In view of the above discussion, the finding recorded by the Tribunal are finding of facts, as may not interfered with in the present appeal.

10. Accordingly, the instant appeal lacks merit and is **dismissed**. No order as to costs.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

October 14, 2026

#Vikram/-

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