IN THE INCOME TAX APPELLATE TRIBUNAL BENCH-RANCHI
VIRTUAL HEARING AT KOLKATA

Before Shri Sonjoy Sarma, Judicial Member
and Shri Ratnesh Nandan Sahay, Accountant Member

I.T.A. Nos.4 to 8/Ran/2022
Assessment Years: 2011-12 to 2015-16

Jay Prakash Choudhary……....................….........................……………Appellant
R. K. Patnia & Co., CA,
Rathore Mansion, 1st Floor,
Bank More, Dhanbad,
Jharkhand – 826001.
[PAN: AGJPC2039G]

vs.

ACIT, Central Circle, Dhanbad...…..……..….........……........…….....…...…..Respondent

Appearances by:
Shri Devesh Poddar, AR, appeared on behalf of the appellant.
Shri Rinki Singh, CIT- DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 11, 2025
Date of pronouncing the order : October 10, 2025

ORDER

Per Sonjoy Sarma, Judicial Member:

These five appeals filed by the assessee are directed against the separate orders of the Commissioner of Income-tax (Appeals), all dated 24.03.2022, arising out of assessments framed under section 153A read with section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), for assessment years 2011–12 to 2015–16. Since the issues involved are common, except for variation in figures and assessment years, these appeals were heard together and are disposed of by this consolidated order.

2. Firstly, we take ITA Nos. 04 & 05/Ranchi/2022 (AYs 2011–12 & 2012–13) and ITA No.04/Ran/2022 is taken as lead case.

3. ITA No.04/Ran/2022 - Brief facts of the case are that a search and seizure operation under section 132 of the Act was carried out on 03.09.2014 in the case of Jagdamba Group of cases. The assessee is one of the members of the said group and was consequently covered in the

search. During the course of search, various documents, books of accounts, and records were found and seized. Pursuant to the search, notices under section 153A were issued to the assessee requiring him to file returns of income for the six assessment years immediately preceding the previous year in which the search took place. The assessee filed returns of income declaring income of ₹1,37,550 for AY 2011–12 and corresponding amounts for subsequent years. The Assessing Officer (AO), however, passed assessment orders under section 153A read with section 143(3) of the Act, determining higher incomes by making certain additions/disallowances. For AY 2011–12, the AO determined total income at ₹2,46,136 after disallowing part of the deduction claimed under section 80C. Similarly, for subsequent years, various additions were made, including addition on account of unexplained cash deposits.

4. The assessee carried the matter in appeal before the learned CIT(A), who partly confirmed the additions while granting minor relief. Being aggrieved, the assessee has filed the present appeals before this Tribunal.

5. Aggrieved by the above order assessee is in appeal before this tribunal, the principal grievance of the assessee is that in absence of any incriminating material found during search, the AO was not justified in making additions/disallowances in the assessments framed under section 153A of the Act. The learned counsel for the assessee submitted that no incriminating document or evidence was seized during the course of search which related to the deduction claimed under section 80C or any other disallowance made by the AO. Reliance was placed on the judgment of the Hon'ble Supreme Court in the case of PCIT v. Abhisar Buildwell (P) Ltd. [(2023) 454 ITR 212 (SC)], wherein it was categorically held that in assessments made under section 153A, in absence of incriminating material, completed assessments cannot be disturbed.

6. The learned Departmental Representative, on the other hand, supported the orders of the authorities below, but fairly admitted that no specific incriminating material was brought on record by the AO.

7. We have considered the rival submissions and perused the record. It is an undisputed position that in the present case, no incriminating material was found during the search relating to the deduction claimed under section 80C of the Act or the income originally declared. The AO proceeded merely on the basis of reappraisal of already available records. The law laid down by the Hon'ble Supreme Court in Abhisar Buildwell (supra) squarely applies. It has been held therein that once assessments have attained finality and no incriminating material is unearthed during search, no addition can be made in proceedings under section 153A of the Act. In view of the above, we hold that the additions made for AYs 2011–12 are unsustainable. The order of the authorities below is set aside and the additions are directed to be deleted. The appeal of the assessee is allowed.

8. ITA No. 05/Ranchi/2022 - The issues involved in this appeal for the assessment year 2012–13 are identical to those discussed in ITA No. 04/Ranchi/2022 for the assessment year 2011–12. Accordingly, our findings and conclusions in ITA No.04/Ranchi/2022 shall mutatis mutandis apply to ITA No. 05/Ranchi/2022 as well. In terms of the above both the ITA Nos.04 & 05/Ranchi/2022 (AYs 2011–12 & 2012–13) are allowed.

9. Now, we proceed to adjudicate ITA Nos. 06, 07 & 08/Ranchi/2022 (AYs 2013–14, 2014–15 & 2015–16) and ITA No.06/Ranchi/2022 is taken as lead case.

10. <u>ITA No.06/Ranchi/2022</u> - Brief facts of the case are that in the case of the assessee the AO made additions on account of alleged unexplained cash deposits in bank accounts. For AY 2013–14, addition

of ₹16,32,000 was made under section 68 of the Act on the ground that the assessee had failed to explain the source of cash deposits.

11. Before the CIT(A), the assessee contended that he had declared income under the presumptive scheme of section 44AD and therefore no separate addition was warranted, particularly when the AO had not referred to any specific incriminating material. It was also argued that the AO had not even identified the bank account or produced the relevant bank statement to substantiate the allegation of cash deposits. The CIT(A), however, sustained the additions to the extent of ₹1,60,000 in AY 2013–14 and corresponding amounts in the other years, without meeting the core contention of the assessee that no specific bank account details were furnished.

12. Aggrieved by the above order, assessee is in appeal before this tribunal at the time of the hearing the learned counsel for the assessee reiterated that in absence of clarity about the bank account number, the period of deposit, and the nexus with undisclosed income, the addition under section 68 of the Act is unsustainable. He relied upon the settled principle that vague and general references to cash deposits, without concrete details, cannot justify an addition.

13. On the other hand, the learned Departmental Representative supported the orders of the lower authorities.

14. We have carefully considered the rival submissions and examined the record. On perusal of the assessment orders, we find that while the AO has referred to cash deposits of ₹16,32,000, nowhere has he specified the bank account in which such deposits were made, nor has he annexed or referred to the bank statement forming basis of the addition. The order is vague and suffers from lack of essential particulars. Further, the assessee had declared income under section 44AD of the Act, which provides for taxation on presumptive basis. Once the assessee is covered under section 44AD of the Act and has declared income at the

prescribed rate, unless specific incriminating evidence of undisclosed income is found, no separate addition can be made merely on the ground of cash deposits. This position has been upheld in several judicial precedents. In our considered view, the additions made by the AO and sustained by the CIT(A) are not legally tenable. The AO failed to establish the existence of unexplained cash credits with reference to a specific bank account or corroborative material. In such circumstances, the addition under section 68 of the Act cannot be sustained. Accordingly, we direct the AO to delete the addition of ₹16,32,000 for AY 2013–14. Hence, ITA No.06/Ran/2022 is allowed.

15. ITA Nos.07 & 08/Ranchi/2022 - The issues involved in both the appeal for AYs 2014–15 and 2015–16 are identical to those which we have already adjudicated in ITA No. 06/Ranchi/2022 for the assessment year 2013-14. Accordingly, our findings and conclusions in ITA No. 06/Ranchi/2022 shall mutatis mutandis apply to ITA Nos.07 & 08/Ranchi/2022 as well.

16. In the result, all five appeals of the assessee, being ITA Nos. 04 to 08/Ranchi/2022, are allowed.

Kolkata, the 10th September, 2025.

Sd/-	Sd/-
[Ratnesh Nandan Sahay]	**[Sonjoy Sarma]**
Accountant Member	**Judicial Member**

Dated: 10.10.2025.
RS

Copy of the order forwarded to:
1. Appellant
2. Respondent
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches