



2026:DHC:3388-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 08.04.2026+ **ITA 262/2026 CM APPL. 19494/2026 CM APPL. 19495/2026****AABID ALI KHAN****....Appellant**

Through: Ms. Sonia Mathur, Sr. Adv. With
Mr. Rajendra Sahu, Ms. Shubhi
Bhardwaj, Mr. Sushil Kumar Dubey,
Ms. Sadeena Khan and Ms. Manasi
Sridhar, Advocates

Versus**THE ASSISTANT COMMISSIONER OF INCOME TAX****.....Respondent**

Through: Mr. Shlok Chandra, Sr. Standing
Counsel with Ms. Naincy Jain, Ms.
Madhavi Shukla, JSCs and Mr. Udit
Dad, Advocates

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****VINOD KUMAR, J. (ORAL)**

1. The present appeal preferred under Section 260A of the Income Tax Act, 1961 (in short "the Act") is directed against an order dated 14.11.2025 passed by the Income Tax Appellate Tribunal, Delhi Bench 'A', New Delhi (in short "ITAT") in ITA No. 1714/DEL/2024. The present appeal pertains

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to Assessment Year (AY) 2017-18.

The facts as per the Assessment Order dated 17.05.2021

2. The Appellant-Aabid Ali Khan, resident of 2016, First Floor, Bank Street, Karol Bagh, New Delhi-110005 is a holder of Permanent Account Number (PAN) AGQPK0737J. The assessment order dated 17.05.2021 has been reproduced by the Commissioner of Income Tax (Appeals) [in short CIT(A)] in his order dated 16.02.2024.

3. Facts as per the Assessment order reveal that on 07.03.2017, the police authorities at Shahjahanpur, Uttar Pradesh intercepted a bus coming from Lucknow and bound for Delhi on the basis of secret information and seized cash amounting to Rs.68,47,000/- along with some contraband substance described as "brown sugar" from four persons namely Mujahid, Shadab, Taufek and Deepu Goswami. During interrogation, the said persons disclosed that the seized cash belonged to Aabid Ali Khan (i.e. the Appellant herein). Consequently, the matter was reported to the Income Tax Department.

4. On receipt of this information, the Investigation Wing authorized ITO, Shahjahanpur to inquire into the matter and furnish a report. The enquiries revealed that cash amounting to Rs.68,47,000/- seized by the police from Muzahid and Sahdab belonged to the appellant.

5. During enquiries, Shahdab and Muzahid made statements to the effect that on 07.03.2017, they brought an amount of Rs.78,80,000/- from Lucknow, when they were intercepted by the police. They stated that the entire amount belonged to the appellant. They disclosed that the appellant herein had given them an amount of Rs.80,42,100/- which they brought



from Delhi to Lucknow on 04.03.2017 for the purchase of a property in Lucknow. However, as the deal could not be materialised, the appellant instructed them to bring back the money. They left Rs.1,20,000/- at Lucknow and brought back the remaining amount of Rs.78,80,000/-.

6. On enquiry, the appellant reiterated the same facts and furnished a list of seventeen persons (including himself, his wife Anisa Begam, his sons, and Muthoot Finance Ltd.) from whom he claimed to have collected the sum of Rs.80,42,100/-, out of which Rs.80,00,000/- were given to Shahdab and Muzahid. He stated that the sum was collected from these persons to purchase a property in Lucknow collectively as an investment. However, he expressed his inability to produce these persons on the plea that it was not possible to bring so many persons to Bareilly from Delhi.

7. He also furnished the names and addresses of the persons with whom the deal was being negotiated in Lucknow. Therefore, enquiries were also conducted with Muzahid Ali resident of Shahjahanpur who stated that he was a property dealer and not the owner of the property no. 105/5 Hussainganj, Lucknow which was the subject of negotiations with the appellant. He stated that since the deal did not materialise, no transfer of property took place.

8. The Assessing Officer took note of the submissions of the appellant and the evidence produced by him. He also perused the entries in the bank accounts of these seventeen lenders advancing money, which showed that the amounts in cash were withdrawn by these persons over a period of long time stretching to weeks and even months. Therefore, the Assessing Officer was of the opinion that the contention of the assessee (i.e. Aabid Ali Khan) was only an attempt to explain unaccounted money seized by the police. He



noted that in the affidavits furnished by these persons, no specific details about the dates of payments/loans etc., were given.

9. It is to be noted that the appellant had also raised a plea that he had obtained a gold loan amounting to Rs. 10,14,000/- from Muthoot Finance Ltd., secured against gold ornaments to prove that he had been arranging the funds for the *bona fide* purpose of purchasing a property. In support of his contention, two loan sanction letters both dated 12.01.2017 was also furnished which reflect that Aabid Ali Khan and his son Sajid Choudhary had taken loans total amounting to Rs. 10,14,000/-.

10. The Assessing Officer was of the view that the appellant failed to explain the source of Rs.68,47,000/- seized by the police on 07.03.2017. He noted that there is no reason as to why so much cash was required to be brought from Delhi to complete the deal, when the appellant himself had an office at Hazratganj, Lucknow and could have easily transferred the amount to his Lucknow office.

11. Further no reason was given by the assessee i.e. Aabid Ali Khan as to why all the seventeen persons had given him money in cash after making cash withdrawals from their bank accounts, and not through banking channels because all of them had their own respective bank accounts.

12. The Assessing Officer was of the view that the money being carried was not for the purpose of purchasing the property at Lucknow as claimed by the appellant as he did not even know the exact quantum of the amount.

13. Observing these facts, the Assessing Officer held that a total cash of Rs.80,42,100/-, which included the seized amount of Rs.68,47,000/-, represented the assessee's unaccounted income and was liable to be taxed during the year under consideration (i.e. AY 2017-18).



14. The Assessing Officer proceeded to pass the assessment order dated 17.05.2021 under Sections 144/153A read with Section 142(1) of the Act making an addition of Rs.80,42,100/- as unexplained cash under Section 69A of the Act and an addition of Rs.4,02,300/- as estimated income (average declared income for past two Assessments Years i.e. 2015-16 and 2016-17). The total assessed income was determined at Rs. 84,44,400/- and with penalties, a demand of Rs.97,19,715/- was raised.

Appeal before Commissioner of Income Tax (Appeals) 29, New Delhi

15. Aggrieved by the Assessment Order dated 17.05.2021 passed under Section 144/153A read with Section 142(1) of the Act, the appellant preferred an appeal before the CIT(A). After considering the rival submissions, the CIT(A) vide order dated 16.02.2024 allowed the appeal partly by deleting the addition of Rs.4,02,300/- but sustained the addition of Rs.80,42,100/- under Section 69A of the Act.

16. The CIT(A) had considered the facts of the case in detail and examined the written submissions along with supporting evidence furnished by the appellant. The grievance of the appellant was that the Assessing Officer had added a sum of Rs. 80,42,100/- as against Rs.68,47,000/- seized by the police.

17. The CIT(A) was of the opinion that the addition was made by Assessing Officer on the basis of statement made by Aabid Ali Khan himself which was corroborated by the statements of Shadab and Mujahid. Therefore, the CIT(A) held that this addition has been correctly made by the Assessing Officer on the basis of evidence recorded after examining various persons and therefore, he declined to interfere with the order of the



Assessing Officer regarding addition of Rs.80,42,100/-. Though he set aside the addition of Rs.4,02,300/-.

Appeal before Income Tax Appellate Tribunal

18. Aggrieved by the order dated 16.02.2024 passed by the CIT(A), the appellant filed an appeal before the ITAT, which dismissed the appeal vide the impugned order dated 14.11.2025 and sustained the addition of Rs.80,42,100/-.

19. His contentions before the ITAT were as under :

i) When only cash of Rs.68,47,000/- was seized, there was no justification for an addition of Rs.80,42,100/- and that at the best Assessing Officer should have made addition of Rs.68,47,000/- only instead of Rs.80,42,100/-.

ii) The CIT(A) did not consider the loan sanction letter for the gold loan of Rs.10,14,000/-.

iii) The CIT(A) did not consider the fact that the joint acquisition of property by pooling resources is a well-accepted practice within the Muslim community. The Assessing Officer failed to issue notices under Section 131 of the Act to summon and examine the contributors, whose names and affidavits along with the bank accounts had been placed on record.

iv) When the assessee had provided *prima facie* evidence regarding the identity of the persons and the sources of the pooled money, the burden was shifted to the Department to verify the same, which the



Assessing Officer could have done by making enquiries from the said persons. Further, the affidavits of those persons could not have been brushed aside without cross-examination.

20. The ITAT answered by holding that it is difficult to accept that as many as seventeen persons helped the assessee in collecting a huge amount of Rs.80,42,100/- and that believe this version would be extending the rules of prudence beyond ordinary human conduct. The ITAT further held that the Assessing Officer was justified in not issuing notices under Section 131 of the Act to summon and examine the contributors, whose names, details and affidavits were on record because the assessee had not sufficiently discharged his initial onus to sufficiently explain the source. Therefore, the Assessing Officer was not required to conduct further enquiries about the truthfulness and credibility of the explanation.

21. Accordingly, the appeal was dismissed by ITAT vide the impugned order dated 14.11.2025.

Submissions of the Parties before this Court and our opinion

22. Aggrieved by the above order of ITAT, the present appeal has been preferred. Learned counsel for the appellant argues that the ITAT has not answered any of the pleas raised before it and had passed a perfunctory order.

23. On the other hand, Mr. Shlok Chandra, Senior Standing Counsel for the department argues that all these issues are purely factual. He submitted that the Assessing Officer, CIT(A) as well as the ITAT have reached the same conclusion that the appellant could not sufficiently explain the source of the huge cash and therefore, the appeal should be dismissed.



24. We have carefully considered the submissions. True it is that this court can entertain an appeal, only if the case involves a substantial question of law. But by now it has been well settled that if there is patent illegality on the face of it, the appellate court can interfere on the factual findings also, in case the same are perverse. Therefore, while hearing the appeal under Section 260A of the Act, this court has a limited window to look into the facts. We may refer to **Vijay Kumar Talwar v. Commissioner of Income-tax, New Delhi (2011) 196 Taxman 136 (SC)** in which Supreme Court of India has held that a finding of fact may give rise to a substantial question of law in the event of findings are based on no evidence or while arriving at the said finding, relevant admissible evidence has not been taken into consideration.

25. Having said so, now we proceed to take up the other issues raised by learned counsel for the appellant. The first grievance is that when the affidavits and statement of bank accounts of seventeen persons were furnished to the Assessing Officer, he was required to issue notices under Section 131 of the Act to verify the truthfulness of those evidences. It is argued that by submitting the affidavits and the statement of bank accounts, the appellant had shown the source of the money.

26. Learned counsel for the appellant argued that the relevant entries have been highlighted in the statement of bank accounts of those seventeen persons, which shows how the money was collected in accordance with prevalent Muslim practices.

27. The appellant has placed on record Annexure P-4, which is a chart showing the names of lenders who had give the money to the appellant, after withdrawing the amounts from their bank accounts. A bare look at this chart



itself shows that the cash withdrawals span a long period from April 2016 to February 2017. Furthermore, a cursory look at the statements is enough to hold that the amount of cash withdrawals is actually much less than as claimed by the appellant and therefore, does not match with the claims made in the affidavits.

28. This is the reason that Assessing Officer has specifically mentioned that the appellant did not give details as on which date, the cash withdrawals were made. Further there is no reason to unsettle the reasoning of the Assessing Officer and so also of CIT (A) and ITAT that since the appellant as well as these contributors had their own bank accounts, there was no reason for them to take out money in cash and then hand over the same to the appellant. Hence, we agree with the finding of the ITAT that the appellant was unable to discharge the initial onus sufficiently and therefore, there was no reason for the Assessing Officer to proceed in the direction of verification of the claims in the affidavits.

29. Another important aspect of the matter is that allegedly money for the deal was withdrawn from the banks by said seventeen lenders during the period from April 2016 till February 2017 from time to time whereas the cash was seized on 07.03.2017. As per the appellant, those seventeen persons had given sum of Rs.80,42,100/- to him. One would wonder that when the deal was not even in the offing, why would those seventeen persons withdraw such huge amount in piecemeal that too over a period spread in months. Had the assessee's stand been true, all those persons would have withdrawn the amount from their bank accounts immediately.

30. The antecedental facts and circumstances that not only an amount of Rs.68,47,000/- was recovered from Shadab and Mujahid but also a huge



quantity of contraband substance was recovered shows that the appellant- assessee has cooked up a story and portrayed a picture to explain and justify an illegal and unexplained income.

31. Now, we take up the issue of the gold loan availed by the appellant and his son on 12.01.2017 from Muthoot Finance Ltd. Perusal of these two loan sanction applications shows that the mode of payment was in cash. These are the documents of the month of January and the seizure of cash took place in the month of March 2017. The Assessing Officer has observed that when all the contributors had bank accounts and Aabid Ali Khan himself had a bank account, why the bank to bank transactions were not conducted.

32. The grant of substantial money in cash as a loan by a financial company (Muthoot Finance Ltd.) itself is unacceptable being not amenable to reason. Further, there is sufficient time gap in the date of the loan and the date of interception of the cash. In such level of unsatisfactory explanation of the appellant, the Assessing Officer had no reason for verifying the details of the said gold loan. Neither the onus shifted to the Department, nor there was any need for cross examination of these contributors by the Assessing Officer.

33. So far as the question of joint procuring of money for purchase of property is concerned, the same could have been considered, had the Appellant offered a satisfactory explanation. Moreover, the Appellant did not produce even a single person out of the seventeen persons before the Assessing Officer. We could have accepted the plea that it was not possible to bring seventeen persons from Delhi to Bareilly before the Assessing Officer due to distance but all these seventeen persons (except Muthoot



Finance Ltd.) were either his family members or his close circle friends. It does not appeal to reason that the appellant could not even produced some of them before the Assessing Officer. The Assessing Officer was therefore, justified in not accepting the explanation of the appellant.

34. Now we come to the issue as to whether the Assessment Officer should have made addition of Rs. 80,42,100/- or Rs. 68,47,000/- to the income of the appellant.

35. We have noticed that the Assessing Officer has summarised the statements of Shadab, Mujahid (from whose possession the cash of Rs.68,47,000/- was recovered) as well as of Aabid Ali Khan in his order. Shadab and Mujahid stated that they had in their custody an amount of Rs.78,80,000/-. However, when counted, the seized amount was found to be Rs.68,47,000/-. They had also stated that Aabid Ali Khan had given them an amount of Rs.80,00,000/- which they brought from Delhi to Lucknow for purchase of a property. Aabid Ali Khan had also stated that out of the collected amount of Rs.80,42,100/-, he had given Rs.80,00,000/- to Shadab and Mujahid.

36. As already stated, the Assessing Officer did not accept the assessee's plea and rejected his claim of having borrowed or collected Rs.80,42,100/- from seventeen persons. We fail to understand that when the Assessing Officer himself had rejected the stand of the appellant about the borrowing/collection of Rs.80,42,100/-, how he could take this figure of Rs.80,42,100/- and make addition of this amount to the income of the appellant. In fact the Assessing Officer has noted that the appellant did not even know the exact amount. The Assessing Officer has recorded that the appellant so also Shadab and Mujahid were not aware of the exact amount.



37. Thus, we are of the view that the Assessing Officer himself had not accepted the claim of the appellant having collected Rs.80,42,100/- from seventeen persons, it was not justified for him to make an addition of Rs.80,42,100/-. Once the plea or stand of the assessee was rejected, it has to be rejected whole hog. The Assessing Officer cannot reject one side of the story and accept the other, when there is no other incriminating material. The fact that a sum of Rs.68,47,000/- was recovered and not only the carriers of the said amount but also the appellant had admitted the amount to be belonging to him, the Assessing Officer should have made an addition of Rs.68,47,000/- in the hands of the assessee. The addition of Rs.80,42,100/- to the income of the appellant is in itself contrary to Assessing Officer's own rejection of the appellant's claim. Thus this addition of Rs.80,42,100/- instead of seized amount of Rs. 68,47,000/- suffers from perversity. We hold that an addition equal to the seized cash amounting to Rs.68,47,000/- alone can be added in the hands of the appellant for the Assessment Year 2017-18.

38. Though the issue before us involves pure findings of fact and it is not within the domain of this court to enter into the details of these facts, however, in order to confine the addition to the extent plausible and permissible, we have ventured into the factual analysis.

Conclusion

39. In view of the foregoing discussion, the appeal is partly allowed. The addition of Rs.80,42,100/- is reduced to Rs.68,47,000/-. We thus, modify the impugned order dated 14.11.2025 in the manner that there shall be an addition of Rs.68,47,000/- in the income of the appellant during Assessment Year 2017-2018. Consequences to follow. The Assessing Officer shall give



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appeal effect in accordance with law.

40. The pending applications also stand disposed of.

VINOD KUMAR, J

DINESH MEHTA, J

APRIL 08, 2026

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