

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 5477/Del/2025
(Assessment Year: 2015-16)**

ACIT, Delhi	Vs.	Rajiv Tyagi, House No. B-203, Yojna Vihar, Laxmi Nagar, New Delhi
(Appellant)		(Respondent)
		PAN: AACPT5190L

Assessee by :	Shri Nitin Gulati, Adv
Revenue by:	Ms. Harpreet Kaur Hansra, Sr. DR
Date of Hearing	25/03/2026
Date of pronouncement	13/05/2026

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.5477/Del/2025 for AY 2015-16, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 10.07.2025 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.12.2017 by the Addl. CIT, Special Range-19, New Delhi (hereinafter referred to as 'Id. AO').
2. The only issue to be decided in this appeal is as to whether the Learned CITA was justified in deleting the addition made under section 41(1) of the Act in the facts and circumstances of the instant case in respect of additions to capital account.
3. We have heard the rival submissions and perused the materials available on record. The assessee is a dealer in Bajaj Auto two wheelers under the name and style of M/s Rajiv Automobiles. The return of income

for the assessment year 2015-16 was filed by the assessee on 30-09-2015 declaring total income of Rs 24,48,050. There was a substantial increase in capital account of the assessee during the year under consideration which was sought to be examined during the course of scrutiny assessment proceedings. The assessee submitted that he had an opening personal capital of Rs 7,57,01,276 in addition to opening business capital of Rs 4,54,82,582. The assessee was asked to provide the copy of capital account ledger, reconciliation and explanation for increase and decrease including the proof and source of income. The Learned AO noted that these details were not furnished by the assessee.

4. The Learned AO noted that assessee filed only the capital account for the period 01-04-2011 to 31-03-2015 and could not provide any details for the opening personal capital as of 31-03-2014. The Learned AO noted that the assessee did not deduct the taxes paid during the year in the form of TDS and self-assessment tax totaling to Rs 5,99,712 from the capital account. Not being satisfied with the contentions of the assessee, the Learned AO proceeded to treat the addition made in the capital account in the sum of Rs 7,62,00,988 as income under the head income from business and profession. The breakup of the said addition is increase in capital account of Rs 7,57,01,276 and TDS and self-assessment tax of Rs 5,99,712 not being deducted from the capital account would only go to increase the balance in the capital account. Hence, the same was also added by the Learned AO in the assessment.

5. The assessee preferred an appeal before the Learned CITA and filed detailed submissions thereon. The Learned CITA sought for a remand report from the Learned AO. The Learned AO in the remand proceedings noted that the assessee was in receipt of loan from four family members

(Sharma Devi Tyagi, Smt Babita Tyagi, Shri Deepanshu Tyagi and Shri R.C Tyagi) which were recorded initially as Sundry Creditors. The remand report highlighted that these amounts were subsequently transferred to the capital account on 01-04-2014 and presented as the assessee's opening capital. The Learned AO's remand report highlighted that these amounts due to family members as Sundry Creditors until 31-03-2014 were purportedly claimed as business expenses in the form of rent and salary in previous financial years. Accordingly, the Learned AO sought to invoke the provisions of Section 41(1) of the Act for the same on the ground that the said liability had ceased to exist. The Learned AO in the remand proceedings rejected the assessee's argument that the transaction was merely a reclassification of funds from Sundry Creditors to opening capital account. The assessee filed his rejoinder to the remand report strongly objecting that the invocation of provisions of Section 41(1) by the Learned AO in the remand proceedings per se is patently illegal as the inquiry under Section 250(4) of the Act should be limited to asking for information about the existing information and not for the new one and that this new section was neither directed by the Learned CITA nor discussed during the original assessment proceedings by the Learned AO. The assessee refuted the claim of non-cooperation and evasiveness by citing the Learned AO's own assessment order which states that the Learned AO attended, submitted necessary details and that books of accounts were examined on test-check basis. The assessee further clarified that the capital account for 01-04-2011 to 31-03-2015 was duly filed before the Learned AO in the original assessment proceedings itself and together with the details of movements of credit balances. The assessee reiterated before the Learned CITA that the assessee's argument that the capital addition was a legitimate reclassification of existing loan

received from family members which were hitherto categorized as Sundry Creditors as on 31-03-2014 was transferred to proprietor's capital account as on 01-04-2014. It was submitted that this reclassification was carried out based on the advice of the auditors as the loan receipts from family members on personal account cannot be categorized as trade creditors and accordingly it was transferred to the personal capital account of the assessee as opening capital and it was purely a journal entry. In any event, this sum was not received at all during the year under consideration and hence neither the provisions of section 68 of the Act could be applied for the same nor the provisions of section 41(1) of the Act could be made applicable for the same as assessee had continued to acknowledge the credit and liability of loan balances as payable to the family members and there was no cessation of liability carried out by the assessee. Further, the family members had not waived their right to demand the loan back from the assessee. Accordingly, it was stated that provisions of section 41(1) of the Act per se could not be made applicable at all to the facts of the instant case.

6. We find that assessee had explained the transfer of loan balances that were hitherto appearing in sundry creditors in respect of loans received from family members to the personal capital account by way of a tabular form which is reproduced below:-

Name of the members	Credit Balance as on 31.03.2014 (Rs.)	Credit Balance as on 31.03.2015 (Rs.)	Difference added in personal capital of Rajiv Tyagi (Rs.)
Sharma Devi Tyagi	1,94,96,310	44,96,310	1,50,00,000
R. C. Tyagi	4,85,15,000	-	4,85,15,000
Babita Tyagi	1,25,20,000	15,10,000	1,10,10,000
Deepanshu Tyagi	11,76,276	-	11,76,276
Total	8,17,07,586	60,06,310	7,57,01,276

7. From the above table, it is very clear that there was no fresh cash introduced during the year either to the capital account or to any other account in respect of the aforesaid transaction totaling to Rs 7,57,01,276. Hence the provisions of section 68 of the Act cannot be invoked at all. Further, the assessee continues to acknowledge the loans received from family members as amounts payable. No evidence has been brought on record by the revenue to prove that the family members had waived their right to demand back the loan amounts from the assessee. Hence, there is no case of cessation of liability that has been proved by the revenue. Without proving the fact of cessation of liability, no addition under section 41(1) of the Act could be made in the hands of the assessee. Hence, the addition made under section 41(1) of the Act for the same is hereby deleted. With regard to TDS and self-assessment tax of Rs 5,99,712, it is not the case of the revenue that this TDS and self-assessment tax has been paid out of undisclosed sources by the assessee. Further, we find that assessee had sought to explain the entire proprietor's capital account by way of the following table as under:-

Particulars	Amount (Rs.)
Opening Personal Capital b/d (01.04.2014)	7,57,01,276
Opening Capital with Rajiv Automobiles (01.04.2014)	4,54,82,581
Add: Net Profit as per P&L A/c (FY 2014-15)	26,24,387
Less: Drawings during the year	3,60,000
Less: LIC	1,65,000
Balance As At 31/03/2015	12,32,83,244

8. Further, the assessee had explained that the drawings amount include the portion of self-assessment tax. Hence, there cannot be any separate addition on account of the same. Further, the TDS was shown under current assets by the assessee in the asset side. The assessee had

only omitted to transfer the same from current assets to drawings account . This does not constitute any income as long as the source of incurrence of the said tax payments are not doubted by the revenue. It is merely a book entry by way of journal without involving any cash movement. Hence, there is no question of making any addition for the same by applying the provisions of section 41(1) of the Act. Either way, no deduction has been claimed by the assessee for the same. Hence, the provisions of section 41(1) of the Act cannot be made applicable for the same. Further, there was no sum found credited in the books of accounts in respect of TDS and self-assessment tax. Hence, the provisions of section 68 of the Act also cannot be made applicable for the same.

9. In view of the above observations, we find that the Learned CITA had rightly appreciated the contentions of the assessee and deleted the addition to capital account. We do not find any infirmity in the said order of the Learned CITA. Accordingly, the grounds raised by the revenue are dismissed.

10. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 13/05/2026.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated: 13/05/2026
A K Keot

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1. Applicant
2. Respondent
3. CIT

4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi