# All about Income from Undisclosed Sources

In this article, you can gain complete knowledge about various provisions relating to tax treatment of Undisclosed Sources.

**Section 68**

The provisions relating to tax treatment of cash credit are given in section 68.

**What is CASH CREDIT?**

Any sum found credited in the books of the taxpayer, for which he offers no explanation

about the nature and source thereof or the tax authorities are not satisfied by the explanation

offered by the taxpayer, is termed as cash credit.

**Basic provisions**

As per section 68., any sum found credited in the books of a taxpayer, for which he offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, may be charged to incometax as the income of the taxpayer of that year. Further in case of a taxpayer being a closely held company (i.e., not being a company in which the public are substantially interested), if the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such company shall be deemed to be not satisfactory, unless:

(a) the person, being a resident in whose name such credit is recorded in the books of such

company, also offers an explanation about the nature and source of such sum so credited;

and

(b) such explanation in the opinion of the Assessing Officer has been found to be

satisfactory.

Further the above discussed provisions of share application money, share capital, etc., shall

not apply if the person, in whose name such sum is recorded, is a venture capital fund or a

venture capital company as referred to in section 10(23FB).

**Explanation:**

Amount should be credited in the Books of Accounts, if not credited, then Section 68 is not

applicable. Further for applicability of section 68, maintenance of books of accounts is

compulsory. The word ‘explanation’ indicates that the opportunity of being heard must be

given to the assessee to prove the nature and source of investments. The use of word ‘may’

and absence of the word ‘shall’ in the section indicates that the Assessing Officer has

discretion to treat the particular credit as the income of the assessee depending of the facts

and circumstances of each case at a particular situation of time. If the sum credited is not

explained or not explained satisfactorily, AO may treat the sum credited as income but even

if the sum credited is satisfactorily explained, then also on Violation of provisions of Section

269SS &/or Section 269T may be applicable & penalty u/s 271D may be initiated which is

equal to the amount of default. The amount will be taxable in the year in which the amount

was credited in the books of accounts.

**Relevant Citations:**

Amount credited in business books can normally be presumed as business receipt – When

an amount is credited in business books, it is not an unreasonable inference to draw that it is

a receipt from business, if the explanation given by the assessee as to how the amounts

came to be received is rejected by all the incometax authorities as untenable –

Lakhmichand Baijnath v. CIT [1959] 35 ITR 416 (SC).

• Department need not locate source of receipt – Where the assessee has failed to prove

satisfactorily the source and nature of a credit entry in his books, and it is held that the

relevant amount is the income of the assessee, it is not necessary for the department to

locate its exact source – CIT v. M.Ganapathi Mudaliar [1964] 53 ITR 623 (SC)/A.

Govindarajulu Mudaliar v. CIT [1958] 34 ITR 807 (SC).

• Onus is on assessee to discharge that cash creditor is a man of means – The onus is on

the assessee to discharge the onus that the cash creditor is a man of means to allow the

cash credit. There should be identification of the creditor and he should be a person of

means. When the cash creditor is an incometax assessee, it cannot be said that he is not a

man of means – Kamal Motors v. CIT [2003] 131 Taxman 155 (Raj).

• Deposits from tenants – In regard to deposit from tenants, it is sufficient if the assessee

proves the identity of the tenant and the genuineness of transaction under which the deposit

is made. It will not be necessary for the assessee to prove the capacity of the tenant to make

the deposit/advance – CIT v. Nevendram Ahuja [2005] 197 CTR (MP) 462.

• Gifts – In the case of cash gifts recorded in the books of the donee, mere identification of

the donor and showing the movement of the amount through banking channels is not

sufficient to prove the genuineness of the gift. The onus lies on the donee not only to

establish the identity of the donor but also the donor’s capacity to make such a gift. Where

there was nothing on record to show as to (i) what was the financial capacity of the donors,

(ii) what was the creditworthiness of the donors, (iii) what was the kind of relationship the

donors had with the doneeassessee, (iv) what are the source of funds gifted to the assessee, and (v) whether the donors had the capacity of giving large amount of gift to the

assessee, the Tribunal would not be justified in deleting the additions made by the Assessing

Officer, especially when the assessee did not appear in person before the Assessing Officer

despite being asked to do so – CIT v. Anil Kumar [2008] 167 Taxman 143 (Delhi).

Gifts made by a mother to a son do not require any occasion and mother can make a gift to

her son at any time – CIT v. Suresh Kumar Kakar [2010] 324 ITR 231 (Delhi).

**Section 69**

The provisions relating to tax treatment of unexplained investments are given in section 69.

What is Unexplained investments ?

Where in a year the taxpayer has made investments which are not recorded in the books of

account, if any, maintained by him for any source of income, and he offers no explanation

about the nature and source of the investments or the explanation offered by him is not

satisfactory, such investment is called as undisclosed investments

**Basis Provision**

Where in a year the taxpayer has made investments which are not recorded in the books of

account, if any, maintained by him for any source of income, and he offers no explanation

about the nature and source of the investments or the explanation offered by him is not, in

the opinion of the Assessing Officer, satisfactory, than the value of the investments may be

deemed to be the income of the taxpayer of such year.

**Explanation:**

Amount should not be credited in the Books of Accounts, if credited, then Section 69 is not

applicable. Further for applicability of section 69, maintenance of books of accounts is not

compulsory. The word ‘explanation’ indicates that the opportunity of being heard must be

given to the assessee to prove the nature and source of investments. The use of word ‘may’

and absence of the word ‘shall’ in the section indicates that the Assessing Officer has

discretion to treat the particular investment as the income of the investorassessee

depending of the facts and circumstances of each case at a particular situation of time. After

making the addition , the AO may initiate the penalty under section 271(1)(c) either for

concealment of particulars of income or for furnishing inaccurate particulars of income

depending on the nature of addition made by him. The phase incorporated in Section 69

“Such Financial Year “ is very significant. The question is how to determine “Such Financial

Year”. The amount of unexplained investment will be deemed to be the income of the

Investorassessee of the financial year in which said investment is made by him.

**Relevant Citations:**

In Mad HC in 241 ITR 363,158 Taxman 363, 236 ITR 340, J&K HC in 201 CTR 178, it was

held that when there was inflated stock to avail higher credit facility from bank (only amount

inflated but quantity remained same), the books of the Assessee were duly audited and no

trading outside the books were detected, the addition of difference in stock value could not

be made as undisclosed income.

• In Delhi ITAT Kanta Dua, a husband made investment in Units of Mutual fund from Joint

Bank Account in the name of himself and wife (second holder), the AO based on AIR

information, made assessment in the hands of wife as unexplained investment, which was

held as invalid by higher Tax authorities.

• In Mad HC in N Swamy 241 ITR 363 relied by Chennai ITAT in Omega Estates and Chd

ITAT in Dr. R.L.Narang, it was held that The burden of showing that the assessee had

undisclosed income is on the revenue. That burden cannot be said to be discharged by

merely referring to the statement given by the assessee to a third party in connection with a

transaction which was not directly related to the assessment and making that the sole

foundation for a finding that the assessee had deliberately suppressed his income.

• In Mum ITAT in Rupee Finance 119 TTJ 643, it was held that merely because assessee

purchased certain shares at value much less than market price, difference in purchase cost

and market price cannot be added u/s 69.

• In ITO vs. Mrs. Deepali Sehgal (ITAT Delhi), ITA No. 5660/Del/2012, the AO noted that

assessee had withdrawn huge cash from bank account and the same amount had been

deposited to the same account after lapse of substantial time. The AO rejected the

explanation and held that the assessee had cash deposit of Rs.24,38,000/as

unexplained money and the assessee found to be the owner of the money as he had not offered any acceptable and cogent explanation. AO, in his remand report could not bring out any fact that the cash withdrawn from Saving Bank Account and partnership overdraft account was used for other purpose anywhere else then, merely because there was a time gap between

withdrawal of cash and its further deposit to the bank account, the amount cannot be treated

as income from undisclosed sources u/s 69 of the Act in the hands of the assessee. Hence,

the addition made by AO without any legal and justified reason was rightly deleted by the

CIT (A).

**Section 69A**

**Unexplained money, etc.**

Where in any year the taxpayer is found to be the owner of any money, bullion, jewellery or

other valuable article and such money, bullion, jewellery or valuable article is not recorded in

the books of account, if any, maintained by him for any source of income, and the taxpayer

offers no explanation about the nature and source of acquisition of the money, bullion,

jewellery or other valuable article, or the explanation offered by him is not, in the opinion of

the Assessing Officer, satisfactory, than the money and the value of the bullion, jewelry or

other valuable article may be deemed to be the income of the taxpayer for such year.

**Explanation:**

Amount should not be credited in the Books of Accounts, if credited, then Section 69A is not

applicable. Further for applicability of section 69A, maintenance of books of accounts is not

compulsory. The word ‘explanation’ indicates that the opportunity of being heard must be

given to the assessee to prove the nature and source of investments. The use of word ‘may’

and absence of the word ‘shall’ in the section indicates that the Assessing Officer has

discretion to treat the particular asset as the income of the assessee depending of the facts

and circumstances of each case at a particular situation of time.

**Relevant Citations**:

In P&HHC in 294 ITR 78, the assessee was found to be in possession of loose slips and

not any valuable article or things. Neither the possession nor the ownership of any jewelry

mentioned in the slips was proved. Therefore, the Tribunal had rightly held that the

provisions of section 69A of the Act were not applicable. The Tribunal also held that if the

assessee failed to explain the contents of the slips, it was for the Revenue to prove on the

basis of material on record that they represented transactions of sales or stock in trade

before making any addition on this score. The assessee had duly explained that these were

rough calculations and the assessee’s explanation had not been rebutted by any material

evidence.

• Commissioner of Incometax vs. Meghjibhai Popatbhai Virani – Where assessee in support

of certain amount received from his family members on account of sale of property, produced

family settlement agreement and sale agreement, there being no defect in said agreements,

amount so received by assessee could not be added to his taxable income as unexplained

money.

• Ownership is one of the Considerations – The material difference between Section 68 and

69A is that Section 68 does not require that the amount is to be owned by the Assessee. It

only deals with any amount shown in the books of accounts of the assessee whereas

Section 69A deals with money, etc., owned by the assessee and found in his possession. –

Durga Kamal Rice Mills v. CIT [2003] 130 Taxman 553 (Cal.).

• Possession of cash is evidence of ownership – Where cash was found in possession of

assesseepolitician

during search and his claim that it belonged to a political party was

denied by President and Treasurer of said party, addition of such cash to assessee’s income

was rightly sustained by tribunal – Sukh Ram v. Asstt. CIT [2006] 285 ITR 256 (Delhi).

• Date of possession of money, etc. will determine year of Assessment – The relevant would

be the date on which the assessee is physically found to be in possession of the money, etc.

and not the date on which the finding about ownership is recorded. – Patoa Bros. v. CIT

[1982] 133 ITR 672 (Gau.).

• Where assessee was managing a firm which collected deposits from public, but there was

no evidence regarding registration and genuineness of firm and assessee could not explain

source of deposits, nor could assessee establish that such deposits did not belong to him,

addition of such deposits as assessee’s unexplained investments was justified – CIT v. K.

Chinnathamban [2007] 162 Taxman 459/292 ITR 682 (SC).

**Section 69B**

**Amount of investments, etc., not fully disclosed in books of account**

Where in any year the taxpayer has made investments or is found to be the owner of any

bullion, jewellery or other valuable article, and [As amended by Finance Act, 2016] the

Assessing Officer finds that the amount expended on making such investments or in

acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in

this behalf in the books of account maintained by the taxpayer for any source of income, and

the taxpayer offers no explanation about such excess amount or the explanation offered by

him is not, in the opinion of the Assessing Officer, satisfactory, than the excess amount may

be deemed to be the income of the taxpayer for such year.

**Explanation:**

Excess Amount should not be credited in the Books of Accounts, if credited, and then

Section 69B is not applicable. The word ‘explanation’ indicates that the opportunity of being

heard must be given to the assessee to prove the nature and source of investments. The

use of word ‘may’ and absence of the word ‘shall’ in the section indicates that the Assessing

Officer has discretion to treat the particular investment as the income of the investorassessee

depending of the facts and circumstances of each case at a particular situation of time.

**Relevant Citations:**

In Smt. Amar Kumari Surana v. CIT [1996] 89 Taxman 544 (Raj.), it was held that the

burden is on the revenue to prove that real investment exceeded the investment shown in

account books of the assessee. Merely on the basis of fair market value no addition can be

made under section 69B, but if on the basis of sufficient material on record some reasonable

inference can be drawn that the assessee has invested more amount in purchase of plot

than that shown in account books, then only the addition under section 69B can be made.

• In In CIT v. Daya Chand Jain Vaidya, the Allahabad Court shifted the onus on to the

department saying that if the assessee’s explanation that the investments were in fact held

by his wife and sons is not sustainable, then the department has to prove with material

evidences that the investments were owned only by the assessee himself. Having said this,

it is noteworthy that sec.69B per se uses the phrases like “is found to be the owner of any

bullion, jewelry or other valuable article, and the Assessing Officer finds that the amount

expended on making such investments or in acquiring such bullion, jewelry or other valuable

article……” (as opposed to the word ‘reasons to believe’) which is very conclusive that there

is no room for any taxation based on a mere suspicion.

• In case of doubt, Assessing Officer can make reference to Valuation Cell – If the assessee

maintained books of accounts in the regular course of business and necessary entries

relating to the expenditure towards cost of construction are entered in the books of accounts,

which are open to verification, and its correctness is not doubted, it should be accepted. In

case of doubt, Assessing Authority can refer the matter to the valuation cell for determination

of cost of construction and rely upon such report as an evidence, but it is open to the

assessee to challenge the correctness of such valuation report and in case if it establishes

that such report is not correct and reliable, expenditure shown in the construction as per the

books of accounts is liable to be accepted. – CIT v. Meerut Cement Co. Pvt. Ltd. [2006] 150

Taxman 7 (All.).

**Section 69C**

**Unexplained expenditure, etc.**

Where in any year the taxpayer has incurred any expenditure and he offers no explanation

about the source of such expenditure or part thereof, or the explanation, if any, offered by

him is not, in the opinion of the Assessing Officer, satisfactory, then the amount covered by

such expenditure or part thereof, as the case may be, may be deemed to be the income of

the taxpayer for such year. Aforesaid unexplained expenditure which is deemed to be the

income of the taxpayer by virtue of section 69C shall not be allowed as a deduction under

any head of income.

**Explanation:**

Further for applicability of section 69C, maintenance of books of accounts is not compulsory.

The word ‘explanation’ indicates that the opportunity of being heard must be given to the

assessee to prove the nature and source of investments. The use of word ‘may’ and

absence of the word ‘shall’ in the section indicates that the Assessing Officer has discretion

to treat the particular investment as the income of the assessee depending of the facts and

circumstances of each case at a particular situation of time.

**Relevant Citations:**

As per proviso to Section 69C, when expenditure is deemed to be the income of the

assessee, no allowance of the same can be claimed as business expenditure.

• The Jaipur Bench of ITAT ruling in 31 DTR 456Nisraj Real Estate held that unverified

purchases made by assessee could not be treated as unexplained expense u/s 69C and no

addition can be made thereof u/s 69C proviso there under – as once sales were made by

assessee, purchases were obviously made.

• Question of Addition depends on satisfactory explanation of source – Section 69C deals

with unexplained source of expenditure. If from documents it appears that there was

expenditure, unless its source is satisfactorily explained, the same would also be deemed to

be the income of the assessee for such financial year. The question depends on the

satisfactory explanation of the source. – CIT v. Bhagwati Developers Pvt. Ltd. [2003] 261 ITR

658 (Cal.).

• Estimation of household expenditure in a particular year cannot be made on the basis of

income of subsequent years – Where the search discloses that any expenditure is found to

be false, appropriate additions can be made but what is relevant is that the addition can be

made only in regard to the income related to false claim of expenditure disclosed by material

unearthed during the search. There is absolutely no basis for assuming that the expenditure

incurred during a particular month/year should be the expenditure during the ten years also.

The monthly household expenditure may depend on various circumstances, one factor being

the income/earning. Estimating the household expenditure in a particular year with reference

to the income of a future year (that too 5 to 10 years later) in absence of any other evidence

would be arbitrary and illegal – CIT v. C.L. Khatri [2005] 147 Taxman 652 (MP).

• Invocation of Powers under Section 142A – For purpose of getting himself satisfied about

purported unexplained expenditure under section 69C, powers under section 142A could not

be invoked by Assessing Officer – CIT v. Aar Pee Apartments Pvt. Ltd. [2009] 319 ITR

276/[2010] 188 Taxman 39 (Delhi).

**Section 69D**

**Amount borrowed or repaid on hundi**

Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any

person otherwise than through an account payee cheque drawn on a bank, the amount so

borrowed or repaid shall be deemed to be the income of the person borrowing or repaying

the such amount. It will be treated as income for the year in which it was borrowed or repaid,

as the case may be. However it should be noted that if any amount borrowed on a hundi has

been treated as income of any person by virtue of section 69D, than such person shall not

be liable to be assessed again in respect of the same amount on repayment thereof. Amount

repaid shall include the amount of interest paid on the amount borrowed.

**Taxability of above sections**

As per section 115BBE, where the total income of a taxpayer includes any income referred

to in section 68 , section 69 section 69A, section 69B,section 69C or section 69D, the incometax

payable shall be the aggregate of— (a) The amount of incometax calculated on income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of 30% (plus surcharge and cess as applicable); and (b) the amount of incometax payable on his other income (i.e., income other than covered by sections 68, 69, 69A, 69B, 69C, and 69D) at the rates applicable to such other income. Section 115BBE further provides that no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the taxpayer under any provision of Incometax Act in computing his income referred to in sections 68 to 69D. Thus, the taxpayer is neither entitled to claim any deduction nor entitled to set off any loss for the unexplained expenditure and nor entitled to adjust the basic exemption limit against cash credits charged to tax by virtue of provisions of sections 68 to 69D.

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