

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 5492 and 5493/MUM/2024  
Assessment Year: 2012-13 and 2011-2012**

Rupa Vipul Shah B-16, Gurukrupa, Plot No.164, Garodia Nagar, Ghatkopar East, Mumbai – 400 077 (PAN : APGPS0496F)	Vs.	Commissioner of Income Tax (Appeals), Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Shri Jayant R. Bhatt, CA  
Revenue : Shri R. R. Makwana, Addl. CIT

Date of Hearing : 29.01.2025  
Date of Pronouncement : 28.04.2025

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

These two appeals filed by assessee are against the orders of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order nos. ITBA/NFAC/S/250/2024-25/1068732636(1) and ITBA/NFAC/S/250/2024-25/1068732174(1) , dated 17.09.2024, passed against the assessment orders by Income Tax Officer-27(3)(2), Mumbai, u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 29.12.2018, for Assessment Years 2012-13 and 2011-12.

2. Grounds raised by the assessee in both the appeals are reproduced as under:

ITA No. 5492 /MUM/2024

*“1. Under the facts and circumstances of the case and in law, the order passed by CIT (A) being being in violation of natural justice and as such the assessment should be annulled.*

*2. Under the facts and circumstances of the case and in law, the CIT (A) has erred in making an addition of Rs78,82,198/- and that the same should be deleted.*

ITA No. 5493/MUM/2024

*1. Under the facts and circumstances of the case and in law, the order passed by CIT (A) being being in violation of natural justice and as such the assessment should be annulled.*

*2. Under the facts and circumstances of the case and in law, the CIT (A) has erred in making an addition of Rs.9,80,56,410/- and that the same should be deleted.*

*3. Under the facts and circumstances of the case and in law, the CIT (A) has erred in disallowing the claim of loss of Rs.1,25,00,000/- under the head business and profession and that the same should be allowed.*

2.1. It is stated before us that issue involved in both the appeals is common relating to addition made towards transactions in two bank accounts alleged to be of the assessee which remained to be disclosed and explained. Accordingly, we take up both the appeals together by passing this consolidated order. For drawing facts of the case, we refer to the appeal for Assessment Year 2012-13. Our observations and findings shall accordingly apply mutatis mutandis to the appeal for Assessment Year 2011-12.

3. Brief facts of the case are that assessee is a salaried employee working with G.M. Bhatia, Ramji Asher School, as a teacher and her

income is ordinarily derived from Salary, Interest and investment income. She filed her return of income on reporting total income at Rs.2,67,870/- . Upon receipt of information by the ld. Assessing Officer from DDIT (Inv.), Unit-3(2), Mumbai that assessee had entered into various high value transactions including cash deposit in her HDFC Bank account and Oriental Bank of Commerce, viz. bank account no. 10602110026980 maintained with Oriental Bank of Commerce, Fort, Mumbai which was credited with amount of Rs.14,149/- and another bank account no. 01188630000159 maintained with HDFC Bank, Ghatkopar (E), Mumbai which was credited with amount of Rs.2,61,06,183/-, case of the assessee was reopened by invoking the provisions u/s 148 rws 147 of the Act.

3.1. Ld. Assessing Officer noted from the bank statement of account number 10602110026980 maintained with Oriental Bank of Commerce, Ghatkopar (E), Mumbai that Rs.14,149/- was credited by way of cheque and in account number 01188630000159 maintained with HDFC Bank, Ghatkopar (East), Mumbai, assessee deposited cash of Rs.2,93,000/- plus Rs.2,58,13,183/- were credited by way of cheque, aggregating to Rs.2,61,06,183/- during the assessment year 2012-13. In this respect, assessee was show caused to explain as to why the amount of Rs.2,61,20,332/- should not be treated as unexplained money u/s.69A of the Act.

3.2. Assessee furnished her reply stating that she had only three bank accounts, details of which is tabulated below. According to her, these are the only three accounts which she operated and all her income earned are through these three bank accounts only.

Name of the Bank	Account no.	Branch Address
Oriental Bank of Commerce	10602110040510	Garodia Nagar, Ghatkopar (E) Branch, Mumbai-400077
Indian Overseas Bank	86277	Garodia Nagar Branch, Ghatkopar(E), Mumbai-77
Corporation Bank	073700101002591	Kailash Jyothi, Derasar Lane, MG Road, Ghatkopar (E), Mumbai-400077

3.3. As regards the other two bank accounts which are enquired upon by the Id. Assessing Officer, she submitted that these were never operated by her and is unaware of the same. In respect of transactions with HDFC Bank, Ghatkopar (East) is concerned, it was submitted that the said bank account was opened under the instruction of her husband and that she was not operating the said account. She had also categorically submitted that she did not have any knowledge of any such transactions and that she did not have even the bank statements of the said bank account. Assessee claimed that these accounts were operated by her husband and she is completely unaware of the transactions made through these accounts. She further requested the Id. Assessing Officer to provide her copies of bank statements of the accounts for which the case has been reopened. In this regard, assessee furnished her affidavit on oath stating and affirming about the aforesaid facts.

3.4. According to the Id. Assessing Officer, since assessee failed to furnish the source of credit entries in the two bank accounts, he did not accept the submission made by the assessee. He noted from bank account statement of HDFC Bank that out of total credit entries of Rs.2,61,06,183/-, one credit entry of Rs. 1,82,33,985/- dated

14.12.2011 appear due to cheque bounce. He thus took the total credit entries in HDFC Bank Ltd of Rs.78,82,198/-, that is after reducing the amount of cheque bounce. To conclude the assessment, amount of Rs. 78,86,347/- was treated as unexplained money u/s.69A of the Act and added to the total income of the assessee. Aggrieved, assessee went in appeal before the ld. CIT(A).

4. Before the ld. CIT(A), submissions were reiterated. Ld. CIT(A) did not find favour with the submissions of the assessee and confirmed the addition so made. Aggrieved, assessee is in appeal before the Tribunal.

5. Before us, ld. Counsel of the assessee apart from the above submissions submitted that after lots of efforts, assessee could get bank statements from the banks. Copy of bank statement of these two bank accounts are placed in the paper book by the assessee. It was submitted that ld. Assessing Officer has simply made an addition of credit side of transactions in bank accounts ignoring the entire debit side which would have an effect on such credit side of transactions. Further, majority of the payments were primarily the transactions of transfer from her husband's bank account, details which is not available with her for which she had been repeatedly requesting from the assessment stage to provide the same. It was also submitted that majority of the transactions are transfer to and from the husband account and contra entries on account of cheque returns.

6. Per contra, ld. Sr. DR relied on the orders of the authorities below.

7. We have heard both the parties and perused the material placed on record. It is noted that for the two bank accounts in respect of which case of the assessee was reopened by invoking the provisions of section 148 r.w.s 147, she has all along various stages of the proceedings denied owning up the same by submitting that they pertain to transactions undertaken by her husband. Further, it is also contended that she never had copies of these bank statements to put up her claim by verifying them to understand the nature of transactions undertaken therefrom. Ld. Counsel submitted that it now those bank statements are available with the assessee which are placed in the paper book. It is also submitted that bank account with Oriental Bank of Commerce is a joint account with her husband as the first holder. It is submitted by the ld. Counsel that only her husband can explain the transactions carried by him from these two bank accounts as these were always in his control.

8. Considering the facts and circumstances of the present case as narrated above, in the interest of justice and fair play, we find it appropriate to remit the matter back to the file of ld. Jurisdictional Assessing Officer (JAO) for verification of entries in the said two bank accounts to ascertain their factual correctness as to belonging to the husband of the assessee and thereafter arrive at the conclusion to determine the income in the hands of the assessee. It is also important to bear in mind that making addition of entire credit entries is not justifiable, debit entries also must be taken into account. Needless to say, that assessee be given reasonable opportunity of being heard and make any further submissions to substantiate the claims. We also direct the assessee to be diligent in attending the hearing proceedings and not to seek adjournments unless warranted by compelling reasons so as to

expedite the disposal. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

9. Our above stated observations and findings apply mutatis mutandis to the appeal for Assessment Year 2011-12, factual matrix being same.

10. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 28 April, 2025

Sd/-  
(Amit Shukla)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 28 April, 2025***

*MP, Sr. P.S.*

**Copy to :**

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai