

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "H" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 1649/MUM/2025  
Assessment Year: 2010-11**

Gordhanram Bagtaram Devasi  
226 Globle Market Opp Man Market  
Sahara Shoppee Gas, Saboo  
Siddique Road, Mumbai-400001  
**PAN NO. ARUPD 6722 F**  
**Appellant**

I.T.O. Ward (3)(2), Kalyan  
2<sup>nd</sup> Floor, Rani Mansion,  
Murbad Road,  
Mumbai-400601  
**Vs.**  
**Respondent**

Assessee by : Mr. Bharat Kumar  
Revenue by : Mr. Akhtar Hussain Ansari, Sr. DR

Date of Hearing : 24/04/2025  
Date of pronouncement : 29/04/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 20.02.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2011-12, raising following grounds:

1. *“On the facts and circumstances of the case in Law, Ld. CIT (A) erred in confirming addition of Rs. 34,08,195/- u/s 68 which is bad in Law.*



2. *On the facts and circumstances of the case in Law, Ld. CIT (A) erred in confirming stand of invoking section 68 of the Act.*
3. *The assessee craves leave to add, alter or amend the existing grounds of appeal on or before the date of hearing.”*

2. Briefly stated facts of the case are that the assessee didn't file regular return of income in the year under consideration. Subsequently, the Income-tax Department gathered certain information of cash deposit from Scheduled Banks, which was disseminated on criteria of Permanent Account Number(PAN) on data base of Department. From such information available on the database of the income tax department, it was found that the assessee had deposited cash to the tune of Rs. 33,51,195/- in a saving bank account maintained with HDFC Bank. In view of the above information coupled with the fact that no return of income was filed by the assessee for the relevant year, the assessing officer recorded reasons to believe that income escaped assessment and issued notice u/s. 148 of the Income-tax Act,1961( In short the Act), but same was not complied by the assessee. Therefore, in absence of any submission explaining source of the cash deposit, the assessing officer made addition of Rs. 34,08,195/- as unexplained cash credit in terms of Sec. 68 of the Act.

3. Before Ld. CIT(A) also the assessee did not comply and therefore the Ld. CIT(A) following the decision of the Hon'ble Supreme Court in the case of **Kachwala Gems v/s Joint commissioner of income- tax Jaipur [2007] 158 taxman 71(SC)**



and **Roshan Di Hatti V/s CIT (1977) 107 ITR 938 (SC)** upheld the addition made by the Assessing Officer.

4. Before us, the Ld. Counsel for the assessee has filed a paper book containing 12 pages including copy of the Income-tax return filed by the assessee for year under consideration and bank statement of the assessee for the relevant period. The Ld. Counsel for the assessee referred to the return of income filed and submitted that assessee was engaged in the trading of mobile accessories and used to receive payments in cash from its customers located across the India. He submitted that customers of the assessee used to deposit money directly into his account. He referred to the various entries in the bank statement from different places like Goa, Karnataka, Madgaon and Hyderabad. He contended that the assessee used to withdraw the said amount for purchase in cash. The Ld. Counsel referred to return of income filed by the assessee and submitted that assessee declared income on the basis of the presumptive taxation provided u/s 44AD of the Act as no books of accounts were maintained by the assessee. The Ld. counsel for the assessee submitted that the assessee has already paid taxes on the income computed u/s 44 AD of the Act and therefore, no disallowances for the cash deposit is called for the same being part of the sales turnover of the assessee. On the contrary, the Ld. DR relied on the order of the lower authorities.

5. We have heard rival submissions of the parties and perused the relevant materials on record. This is undisputed that the



assessee did not file his regular return of income or return in response to u/s 148 of the Act. The return filed subsequently shows income declared by the assessee under presumptive taxation amounting to Rs. 4,37,390/- and taxes on the same amounting to Rs. 65,000/- has been paid as appearing in form No. 26AS filed by assessee on paper book page No. 5. On perusal of bank statement, we find cash deposit of the amount has been shown from various places, which support the contention of the Ld. Counsel that assessee was engaged in the trading of the goods. In such circumstances, entire turnover of the business cannot be added in the hands of the assessee. However, as far as the income declared u/s 44AD and the taxes paid thereof need verification at the end of the Assessing Officer and therefore, we restore the matter back to the file of the Assessing Officer to the extent of the verification of the income offered and the taxes paid thereof in respect of the trading activity under the presumptive taxation scheme specified u/s 44AD of the Act. The grounds of the appeal of the assessee are accordingly allowed for the statistical purposes.

6. In the result, the appeal of the assessee is accordingly allowed for the statistical purposes.

**Order pronounced in the open Court on 29/04/2025.**

**Sd/-  
(RAHUL CHAUDHARY)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**



Mumbai;  
Dated: 29/04/2025  
Disha Raut, Stenographer

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**