

**IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, AM  
AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2566/Mum/2025  
(Assessment Year: 2014-15)

<b>Umesh Pandey</b> C-23, Corner Chamber, Road No. 5, Shivaji Nagar, Dadar (West), Mumbai – 400 028.	Vs.	<b>Income Tax Officer, 22(3)(6), Mumbai</b>
<b>PAN/GIR No. ALXPP8749H</b>		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Assessee by</b>	:	Shri B. N. Rao
<b>Respondent by</b>	:	Ms. Kavitha Kaushik, SR. DR

<b>Date of Hearing</b>	:	09.07.2025
<b>Date of Pronouncement</b>	:	16.07.2025

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) Delhi ('ld. CIT(A)' for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. It is observed that the assessee has filed the present appeal with a delay of 411 days beyond the period of limitation for which the assessee has filed an application for condoning the said delay. On perusal of the same, we deem it fit to condone the delay for the reason that the assessee had 'sufficient cause' for the said delay. Delay condoned.



3. The assessee has raised the following grounds of appeal:

*“1. The Ld. CIT(A) erred in law and on facts in dismissing the appeal without appreciating that the appellant was deprived of a reasonable opportunity of being heard, violating principles of natural justice.*

*2. The Ld. CIT(A) failed to consider that the original return for AY 2014-15 was filed, and technical issues prevented its appearance on the portal.*

*3. The Ld. AO erred in invoking the provisions of section 69A without allowing the appellant to explain the source of cash deposits and without verifying the business nature of bank transactions.*

*4. The assessment made u/s 144 r.w.s. 147 is bad in law and void ab initio in the absence of proper service of notice and opportunity of being heard.*

*5. The addition of ₹33,78,400/- u/s 69A and ₹25,62,182/- as income from business is arbitrary, excessive, and devoid of evidentiary support.*

*6. The Learned CIT (A) has erred in making additions of cash deposit of Rs 33,78,400/-separately, when assessment has been made on estimate basis @ 8% on Gross Receipts.*

*7. The Learned CIT(A) failed to consider that 26AS of the Appellant does not reflect any TDS deducted from Gross Receipts. The appellant is not having any business income.*

*8. The Learned CIT (A) has failed to consider that appellant has deposited the Cheques of Partnership into Individual bank account. The Learned CIT(A) failed to consider the filing of Income Tax Return along with Tax Audit Report of Firm(USA Enterprises) having Pan No AACFU6543L, disclosing the Contract receipts and 26AS.*

*9. The Learned CIT(A) failed to consider that notices issued by Department dated 24.11.2021, 21.01.2011 & 11.02.2022. The Supreme Court has relaxed the time from 15.03.2020 to 28.02.2022.”*

4. Brief facts of the case are that the assessee is an individual and engaged in civil contract business. The assessee had not filed his return of income for the year under consideration. Based on the information available with the department, where it was observed that the assessee had deposited cash of Rs. 33,54,400/- in his bank account



maintained in State Bank of India, Shivaji Park, Mumbai – 400 028 and Rs. 2,40,000/- deposited in Apna Sahakari Bank Limited, Dr. S. Rao, Mumbai during the impugned year, the assessee's case was reopened u/s. 147 of the Act and the assessee was served with notice u/s. 148, dated 24.03.2021. In response to the notice u/s. 148, the assessee had not filed his return of income for the year under consideration. Notices u/s. 142(1) of the Act were duly issued and served upon the assessee and also show cause notice u/s. 144 of the Act, dated 08.03.2022 was issued to the assessee. As the assessee failed to furnish the complete details/information as required vide statutory notices issued by the Id. AO, inspite of several opportunities, the Id. AO passed the assessment order u/s. 147 r.w.s. 144 r.w.s. 144B of the Act, dated 31.03.2022, being the best judgment assessment, determining the total income at Rs. 59,40,580/- after making additions of Rs. 33,78,400/- as unexplained money u/s. 69A of the Act and Rs. 25,62,182/- under the head Income from Business and Profession.

5. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.
6. The Id. CIT(A) vide an ex parte order dated 28.12.2023, upheld the order of the Id. AO for the reason that inspite of several opportunities, the assessee has failed to substantiate his claim and has been non-compliant throughout the appellate proceedings.
7. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).
8. The learned Authorised Representative ('Id. AR' for short) for the assessee stated that the assessee was a partner in the partnership firm USA Enterprises and Bright Gold. The Id. AR contended that the assessee has not carried out any business in his own



account and the amount deposited in the bank account was only for and on behalf of the partnership firm. The ld. AR submitted that the partnership firm has filed its return of income dated 30.11.2017 along with tax audit report dated 27.11.2017, showing gross receipts of Rs. 1,72,80,855/-. The ld. AR further submitted that the ld. CIT(A) has not considered the income tax return along with tax audit report filed by the partnership firm reflecting the contract receipt and 26AS. The ld. AR further contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present his case before the ld. CIT(A).

9. The learned Departmental Representative ('ld. DR' for short) vehemently opposed to setting aside the issue to the file of the ld. CIT(A) for the reason that the assessee was given several opportunities by the lower authorities which was not availed by the assessee. Further, the ld. DR contended that the assessee has been non-compliant constantly both before the ld. AO as well as before the ld. CIT(A) and prayed that the order of the lower authorities be upheld.
10. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the ld. AO before the first appellate authority but has been non-compliant throughout the appellate proceeding as well as during the assessment proceeding.
11. On the above facts of the case, we are of the considered view that the assessee may be given one more opportunity to present his case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand this issue back to the file of the ld. CIT(A) for *de novo* adjudication. The assessee is directed to strictly



comply with the proceedings without any undue delay on his side and needless it is to say that sufficient opportunity of hearing is to be given to the assessee.

12. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 16.07.2025*

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

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

Mumbai; Dated: 16.07.2025

Karishma J. Pawar (Stenographer)

**Copy of the Order forwarded to:**

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

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai