

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "H (SMC)" MUMBAI**

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

**ITA No. 3536/MUM/2025  
Assessment Year: 2012-13**

Ms. Mita Bimol Kristo Mitra,  
501, 84, Dheeraj Arcade, Pali  
Naka, Bandra West,  
Mumbai-400050.  
**PAN NO. AHAPM 5920 C**  
**Appellant**

The ITO Ward 23(2)(3),  
Room No. 110, 1<sup>st</sup> floor, Matru  
Mandir Tardeo Road,  
Mumbai-400 007.  
**Vs.**  
**Respondent**

Assessee by : None  
Revenue by : Mr. Pravin Salunkhe, Sr. DR

Date of Hearing : 16/07/2025  
Date of pronouncement : 30/07/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 26.03.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2012-13, raising following grounds:

***A) Principles of natural justice violated***

*1) The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) [CIT(A)] erred on facts and in law in confirming the order of the AO by holding that in absence of any*



written submission by the appellant, he was not inclined to interfere with the decision of the AO.

2) The learned CIT(A) failed to appreciate that the appellant was prevented by a reasonable and sufficient cause from furnishing the details before the learned CIT(A) in as much as Punjab and Maharashtra Co-operative Bank was closed and the appellant could not procure the required details within time.

3) Appellant prays that the order passed by the hon'ble CIT(A) may be set aside and the CIT(A) may be directed to pass a speaking order after affording a reasonable and sufficient opportunity of being heard to the appellant.

**Without prejudice to the above :**

**B) Not adjudicating on the ground relating to Reopening of assessment**

4) Without prejudice to the above, the learned CIT(A) erred on facts and in law in not adjudicating on the ground relating to reopening of assessment.

5) The learned CIT(A) erred in not appreciating that the Assessment Order did not contain any DIN nor mentioned the reasons why the same could not be affixed nor gave the details of any approval obtained for passing the order without DIN. Hence, the order u/s. 144 r.w.s. 147 is bad in law.

6) The learned AO failed to appreciate that the appellant's income was below taxable limits and the appellant was not liable to file her return of income and hence there could not be any income escaping assessment. Hence, the reopening of assessment is bad in law.

7) Appellant prays that the CIT(A) may be directed to adjudicate the ground relating to reopening of assessment.

**C) Addition on account of alleged unexplained money u/s. 69A – Rs. 39,73,291/-**

8) The learned AO erred on facts and in law in confirming the addition made by the AO on account of alleged unexplained money u/s. 69A of Rs. 39,73,291/-.

9) The learned CIT(A) failed to appreciate that all the credits in the account of the appellant was not income and that the same could



*not be taxes as alleged unexplained monay u/s. 69A. Hence, the addition of Rs. 39,73,291/- was liable to be deleted.*

*10) Appellant prays that the addition made by the AO on account of alleged unexplained money u/s. 69A of Rs. 39,73,291/- and confirmed by the CIT(A) may be deleted.*

**D) Addition on account of alleged unexplained investment u/s. 69 – Rs. 8,98,056/-**

*11) The learned CIT(A) erred on facts and in law in confirming the addition made by the AO on account of alleged unexplained investment u/s. 69 of Rs. 8,98,056/-.*

*12) The learned CIT(A) failed to appreciate that the maturity of fixed deposits could not be taxed as the appellant's income u/s. 69 and it was only the interest element on maturity of fixed deposits, which could be taxed as the income of the appellant. Hence, the addition of Rs. 8,98,056/- on account of alleged unexplained investment u/s. 69 is liable to be deleted.*

*13) Appellant prays that the addition made by the AO on account of alleged unexplained investment u/s. 69 of Rs. 8,98,056/- and confirmed by the CIT(A) may be deleted.*

2. Briefly stated, facts of the case are that the assessee did not file regular return of income for the year under consideration. In view of information in possession of the Department gathered through Annual Information Return (AIR) that assessee had deposited cash amounting to Rs.13,74,600/-, 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') on 23.03.2019. Pursuant to the notice also, the assessee did not file return of income. The various statutory notices under the Act were issued however same were not complied by the assessee. Assessee was also issued a final show cause notice on 13.11.2019 asking to show cause as why an amount of Rs.39,78,291/-



appearing as credit in the bank account including interest of Rs.21,220/- not be treated as unexplained cash money u/s 69A of the Act. Further, the AO also asked to show cause why the time deposits of Rs.8,98,056/- with Punjab and Maharashtra Cooperative Bank should not be treated as unexplained investment. But in view of no response from the assessee, the Assessing Officer completed the assessment invoking section 144 of the Act based on the available record and made addition of Rs.48,71,347/-.

3. On further appeal also no compliance was made on the part of the assessee before the Ld. CIT(A) and therefore, the Ld. CIT(A) sustained the addition dismissing the appeal in default. The relevant finding of the Ld. CIT(A) is reproduced as under:

*“6. I have carefully considered the assessment order, the grounds of appeal, statement of facts and the relevant provisions of law. In response to the notices issued under Section 250 of the Act, no written submissions and documents in support of the grounds of appeal have been filed till date.*

*6.1 The present appeal pertains to the assessment proceedings initiated under Section 147 read with Section 144 of the Income Tax Act for the assessment year 2012-13. The case revolves around unexplained credits reflecting in the bank account of the Appellant and unexplained bank deposits during the year. The Assessing Officer issued multiple statutory notices under Sections 148, 142(1), and 144 of the Act, to which the appellant failed to respond.*

*6.2 The Appellant has not furnished any explanation with respect to source of cash credits and bank deposits made during the year under consideration.*

*6.3 At the appellate stage, the appellant has not furnished any written submission in support of his claim. No arguments have been advanced by him in his statement of facts and grounds of*



*appeal to rebut the estimated income determined by the AO. The appellant has chosen not to furnish a cogent explanation of the cash credits along with reliable evidence in support of his contentions and grounds of appeal despite ample opportunity and time allowed during the appellate proceedings. In such circumstances, the undersigned is left with no alternative but to presume that the appellant has no further submissions in support of his averments made in the grounds of appeal. Accordingly, the appeal is being decided keeping in view the facts brought on record by the AO in the assessment order and by the appellant in the grounds of appeal and statement of facts.*

*6.4 Based on the material available on record, the appellant's contentions are not acceptable because of specific findings in the assessment order about no evidence being adduced by the appellant to corroborate the claim made. In the absence of any cogent material to explain the nature and source of the bank credits and bank deposits in the bank account, the stand of the AO cannot be faulted. The appellant failed to explain the nature and source of the cash deposits during the assessment proceedings and even in the appellate proceedings. It is a trite law that once the appellant fails to discharge the onus cast on him to explain the nature and source of any sum of money. The genuineness of transactions could not be proved to the satisfaction of the AO during the assessment proceedings.*

*6.5. Primarily, as there is no proper response to appeal notices, the appeal is liable to be dismissed in terms of ratio of verdicts of the Hon'ble Apex Court and the various High Courts. The Hon'ble Apex Court, in the case of CIT v. B.N. Bhattacharjee and another (10 CTR 354) held that "appeal does not mean only filing of memo of appeal but also pursuing it effectively. In cases where the assessee does not want to pursue the appeal, the Court/Tribunal have inherent power to dismiss the appeal."*

*6.6 Hon. ITAT (Cochin Bench) in MP No. 71 to 79 (COCH) OF 2013 in case of Tourist Resorts Kerala Ltd. V Assisstant Commissioner of Income tax Circle -1(1) Thiruvananthapuram has held that where the assessee has failed to show that there was a reasonable cause for non appearance on date of hearing of appeal, applications filed by the assessee for setting aside the ex parte order and restoring appeal were to be dismissed.*

*6.7 Reliance is also placed on the Hon' Supreme Court judgement in CIVIL APPEAL NO. 2463 OF 2019 in the case of Principal Commissioner of Income tax (Central) -1 v. NRA Iron & Steel (P.) Ltd. Reliance is also placed on the decision of the Hon'ble Supreme*



*Court in the case of Ashokii Chanduji Thakor vs PCIT, [2021] 130 taxmann.com.*

*6.8 Based on the facts mentioned above, detailed discussion in the assessment order by the AO and in the absence of any written submission by the appellant, I am not inclined to interfere with the decision of the AO.*

*6.9 Because of the facts mentioned above, I do not find any infirmity in the decision of the AO and I am not inclined to interfere with the decision of the AO.*

*Hence, Grounds of appeal No. 1 to 6 are found to be not maintainable. Accordingly, the same are hereby dismissed.”*

4. We have heard rival submissions of the parties and perused the relevant materials on record. In the grounds raised, the assessee has submitted that the Punjab & Maharashtra Co-operative Bank was closed, therefore, the assessee could not procure required details within the time and therefore, same could not be filed before the Assessing Officer or the Ld. CIT(A). From the submission filed before us as available on record, it transpired that assessee is located at Kolkata and due to notices sent through e-mail only and ill health of the Chartered Accountant appearing for the assessee submission could not be made before the Ld. CIT(A) and the concerned Chartered Accountant ultimately died on 13.07.2025. The relevant submission of the assessee is reproduced as under:

*“I most respectfully wish to bring to your kind attention that I could not respond to or attend the hearing notices issued by the CIT(A) due to the following genuine and unavoidable circumstances:*



*1. Non-awareness of Email Notices:*

*The notices for hearing from the CIT(A) were sent via email. Unfortunately, I was unaware of their receipt as I was not monitoring the email address to which they were sent, owing to lack of knowledge that such communication had been initiated through that channel. As a result, the notices remained unnoticed and unattended and it was not communicated to the office my authorised representative / Chartered Accountant.*

*2. Demise of Previous Chartered Accountant:*

*During the relevant time, my former Chartered Accountant, who was handling all my income tax matters, unfortunately passed away. This led to a breakdown in the communication and handling of my tax proceedings. I was unable to make alternative arrangements in time, which further contributed to the non-compliance. The non-response to the notices was entirely unintentional and caused by the above circumstances beyond my control. I have the utmost respect for the proceedings and authorities of the Income Tax Department, and it was never my intention to disregard or delay the process.*

*I humbly request the Hon'ble Tribunal to kindly condone the lapse and allow me an opportunity to present my case on merits. I am now under proper professional guidance and committed to complying with all future proceedings diligently.*

*I sincerely request that the matter be remanded back to the CIT(A) for fresh adjudication or any other relief as deemed fit by the Hon'ble Tribunal."*

5. In view of above explanation of the assessee we are of opinion that there exists a sufficient cause for non-compliance of the notice issued by the Id. CIT(A), therefore, we feel it appropriate to set aside the order of the Ld. CIT(A) and restore the matter back to the file of the Assessing Officer with the direction to the assessee to file all necessary evidence justifying source and nature of the credits/deposits/time deposits etc. appearing in his bank accounts. The Assessing Officer thereafter shall decide the issue in dispute in



accordance with law. The ground No. 1 of the appeal of the assessee is accordingly allowed. Since we have already restored the matter to the file of the Ld. Assessing Officer, therefore, the other grounds raised without prejudice are not required to be adjudicated upon.

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

**Order pronounced in the open Court on 30/07/2025.**

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

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

Mumbai;  
Dated: 30/07/2025  
Rahul Sharma, Sr. P.S.

**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**