

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA Nos. 2065 and 2066/MUM/2025
Assessment Years: 2012-13 and 2013-14**

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| MASTERJI & CO Shop No.1, Jaiprakash Nagar, Kharodi, Marve Road, Malad West, Mumbai - 400094 (PAN : AAAFM4035B) (Appellant) | Vs. | Income Tax Officer - 41(3)(2), Mumbai (Respondent) |
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Present for:

Assessee : Shri Rajesh Sanghvi, CA
Revenue : Shri Annavaram Kosuri, Sr.AR

Date of Hearing : 17.07.2025
Date of Pronouncement : 31.07.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

These two appeals filed by the assessee are against the orders of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order nos. ITBA/NFAC/S/250/2024-25/1072367152(1) and ITBA/NFAC/S/250/2024-25/1072366141(1), dated 21.01.2025 passed against the assessment order by ACIT, Circle-30(2), Mumbai, u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 03.12.2019 for Assessment Years 2012-13 and 2013-14.

2. Grounds taken by the Assessee are reproduced as under:

ITA No. 2065/MUM/2025

“The Learned CIT(A) erred in confirming addition of Rs. 24,47,000/- made by the Assessing Officer as unexplained cash credit u/s 68 without appreciating the fact that the necessary evidences are filed and submissions were made during the appellate proceedings before CIT(A) which justified the cash deposits of Rs. 24,47,000/- is fully explained.”

ITA No. 2066/MUM/2025

“The Learned CIT(A) erred in confirming addition of Rs. 34,31,530/- made by the Assessing Officer as unexplained cash credit u/s 68 without appreciating the fact that the necessary evidences are filed and submissions were made during the appellate proceedings before CIT(A) which justified the cash deposits of Rs. 24,47,000/- is fully explained.”

3. These two appeals by the assessee have common grounds of appeal with the sole issue relating to addition made u/s.68 towards deposit of cash in the bank account. We take up appeal for Assessment Year 2012-13 as the lead case to draw the facts and give our observations and findings which shall apply *mutatis mutandis* for the appeal for Assessment Year 2013-14.

4. At the outset, we note that there is a delay of six days in filing the present appeals before the Tribunal for which petition for condonation of delay along with corroborative documentary evidences are placed on record. Assessee has also furnished an affidavit for the same. Perusal of these documents reveal that there was a medical exigency at the end of the professional engaged for the purpose of filing the appeals which resulted into this brief delay of six days. Taking into consideration the medical exigency, supported by relevant medical documents on record, we find it appropriate to condone the delay and take up the matter for adjudication.

5. Assessee is a partnership firm engaged in the business of trading in land and real estate. It filed its return of income on 29.09.2012, reporting a total income at Rs.4,65,134/- which was subjected to scrutiny assessment u/s.143(3) whereby returned income was accepted as the assessed income vide order dated 07.03.2015. Subsequently, on the basis of information received from ITO-30(3)(2), Mumbai, wherein during the course of assessment proceedings of one of the partners of the assessee, i.e., Shri Rajesh Jaisingh, case of the assessee was reopened by invoking the provisions of section 148 r.w.s. 147. The re-assessment proceedings were completed by making certain additions and disallowances which includes addition of Rs.24,47,000/- towards deposit of cash in the bank account by treating it as unexplained cash credit u/s.68 for which the assessee is in appeal before the Tribunal.

6. For other additions/disallowance, assessee got a relief against which Revenue is not in appeal as per the statement made at the Bar by the ld. Counsel of the assessee. Ld. Assessing Officer noted that assessee has deposited cash of Rs.24,47,000/- on various dates in the bank account with Jan Kalyan Sahakari Bank Ltd. Statutory notices were issued which remained un-complied at the reassessment stage, compelling the ld. Assessing Officer to make the best judgement assessment u/s.144. Aggrieved, assessee went in appeal before the ld. CIT(A), who gave relief on the other additions and disallowances based on detailed explanations and corroborative evidences furnished by the assessee. However, in the case of the impugned addition of deposit of cash, ld. CIT(A) observed that assessee failed to satisfy the ld. Assessing Officer at the remand stage about the source of deposit of cash in the bank account and upheld the addition so made. It is important to note at this juncture that ld. CIT(A) called for remand

report from the ld. Assessing Officer on account of detailed submissions and documents furnished by the assessee. Ld. Assessing Officer in his remand report has accepted the claim of the assessee on the other issues except for the impugned addition of deposit of cash. In this respect, the observations and findings of ld. Assessing Officer as contained in the remand report are extracted below for ready reference.

“15.1 Addition of Rs.24,47,000/- u/s 68 of the IT Act on account of unexplained cash credit [cash deposit]. The following points emerged from the submission and financials of the assessee for the relevant assessment year:

(i) The assessee admitted that he owns and operates account No MORTG-OD/6 held with Jan Kalyan Sahakari Bank Ltd.

(ii) The cash was deposited to the tune of Rs 24,47,000/- in the above account from 01.04.2011 to 31.03.2012.

(iii) The AO has given him sufficient opportunity of hearing however failed to explain the source of the cash deposit.

(iv) The assessee now submitted the copy of cash account book and pass book to substantiate its claim.

(v) In its reply the assessee has said that it has withdrawal the cash from the bank account and deposits the same when the requirement extinguish.

15.2 Since the addition was made In absence of any response / submission at the time of assessment proceedings the action of AO was justified in such circumstances. Even at this point of time the assessee has replied that it has deposited the cash available with it which is withdrawal from its own account. During the course of remand proceedings, the copy of bank book has been called and the same has been submitted by the assessee. The cash deposit is appearing in the bank book submitted by the assessee a part of the books of account of the assessee. As regards, the nature and source of cash deposit:

(i) It has shown the entire partners capital in the form of cast of Rs 5,84,100/-, it has failed to provide the documentary evidences to support its claim.

(ii) The assessee's submission that it has withdrawal cash from the bank and deposited the same on a subsequent days, though the withdrawal entries appear in the bank statement of the assessee. However it is beyond logic why the assessee will do any unfruitful exercise of withdrawing the money from the bank and made deposits in cash. This seems an afterthought to match the entries.

(iii) It is pertinent to mentioned that the assessee was afforded an opportunity of being heard. Even during the appellate/remand

proceedings nothing brought on records, which explains the nature and source of this cash credit in the account of the assessee. Therefore the cash deposits of Rs 24,47,000/- remains unverified.

(iv) Therefore the above claim of assessee which remained in absence of reliable instrument to establish the genuineness of the transaction lacks credibility. There is nothing brought on records that the above cash deposits were part of the total income of the assessee for the AY under consideration. Therefore the source and nature of above cash deposits remained to be verified. Also, the assessee at any point of time during assessment proceedings as well as appellate proceedings failed to substantiate nature and source of the cash deposits in the bank account.

15.3 Hence, as assessee has failed to substantiate its claim, the additional made by the AO is correct and may kindly be upheld.”

6.1. From the above, it is observed by ld. Assessing Officer that assessee has claimed that it has withdrawn cash from the bank account and deposited the same when the requirement extinguished. In this respect, assessee had submitted copy of cash book and bank book to substantiate its claim. After perusing the records, ld. Assessing Officer noted about his apprehension as to though the withdrawal entries appear in the bank statement, however, it is beyond logic as to why the assessee will do any unfruitful exercise of withdrawing the money from the bank and make deposits in cash. According to him, this seems to be an after-thought to justify the entries for which additions are made. Before us, ld. Counsel for the assessee asserted that deposit of cash is duly supported by the withdrawal from the bank for which he referred to the cash book placed at page-32 onwards in the paper book. He also referred to the summary of cash withdrawn from the bank during the year, to justify the availability of cash for deposit in the bank. Thus, it was submitted that no addition is called for as made by the ld. Assessing Officer.

7. Per contra, ld. Sr. DR submitted that source of deposit of cash is not withdrawal from the bank as claimed by the assessee, rather it is primarily out of deposit of cash by the partners of the firm which has

been stated to be introduction of capital by the partner on various dates during the year. He pointed out to the observations by the Id. Assessing Officer in the remand report in para-15.1(v) to the assertion made by the assessee that withdrawal from the bank is the source for deposit of cash. He also referred to apprehension of Id. Assessing Officer noted in para-15.2(ii) about the explanation given by the assessee of withdrawing the cash and re-depositing the same in the bank account.

8. We perused the cash book placed in the paper book to understand the veracity of submissions made by both the parties. It is noted that the opening balance as on 01.04.2011 is recorded at Rs.49,037.72. On the same date, two cash payments of Rs.2,060/- and Rs.11,000/- are recorded towards labour charges and professional fees, leaving closing balance on 01.04.2011 at Rs.35,977.72. Thereafter, on the next date of 02.04.2011, there are two transactions of deposit of cash in Jankalyan Sahakari Bank with contra voucher No. 82 and 83 having total deposit of Rs.2,40,000/- [2,00,000/- + 40,000/-]. On this very date, there is a receipt of Rs.5,84,100/- recorded in the cash book for which narration given is '*capital introduced by the partners in the firm*'. The details given in the entry mentions that Rs.1,25,400/- is received from Shri Rajesh Jaisingh, Rs.1,35,700/- from Shri Yashwant Jaisingh, Rs.1,45,000/- from Shri Brijesh Jaisingh and Rs.1,78,000 from Shri Chandravati Jaisingh. While analyzing this, it is understood that assessee had an opening balance only of Rs.35,977.72 as cash in hand, though the deposit of cash was made of Rs.2,40,000/- for which there is receipt of cash of Rs.5,84,100/- accounted as capital introduced by the partners in the firm. Similar such transactions appear on the date of 05.05.2011 and 05.07.2011.

8.1. From the above factual position, it is noted that deposit of cash in the bank account is not by withdrawal of cash on these specific dates, where the transaction of deposit was mitigated by bringing capital from the partners in cash. There is nothing placed on record in respect of these transactions of bringing in of capital by the partners in cash. The explanations furnished by the assessee which have been duly examined by ld. Assessing Officer in the course of remand proceedings do not justify the claim that deposits have been made out of withdrawal of cash from the bank. The apprehension of ld. Assessing Officer that this seems to be an after thought to match the entries gets validated from the aforesaid entries noted from the cash book. In the rejoinder, ld. Counsel for the assessee submitted that yes, assessee did receive cash from the partners but the same has been duly accounted for in the books of accounts which are subjected to tax audit. Further, these books of accounts have not been rejected and there is no negative comment by the ld. Assessing Officer on the same.

8.2. Having heard both the parties and perused the material on record and taking into consideration the findings of ld. Assessing Officer in the remand report, we do not find any justifiable reason to interfere with the findings of both ld. Assessing Officer as well as ld. CIT(A) who have upheld the addition. It is worth mentioning that ld. CIT(A) has given credence to various documentary evidences furnished at the first appellate stage for the other two additions which were deleted based on the strength of the submissions as well as the remand report given by the ld. Assessing Officer. However, in respect of the impugned addition sustained towards deposit of cash, ld. CIT(A) has observed that assessee failed to satisfy the ld. Assessing Officer at

the remand stage about the source of deposit of cash in the bank account. Accordingly, the addition so made is sustained.

9. In the result, ground raised by the assessee is dismissed.

10. Appeal for Assessment Year 2013-14 has identical ground with the addition of Rs.34,31,530/-. There being no change in factual matrix, our observations and findings in appeal for Assessment Year 2012-13 apply *mutatis mutandis* to this appeal. Accordingly, ground raised by the assessee in this appeal is dismissed.

11. In the result, both the appeals of the assessee are dismissed.

Order is pronounced in the open court on 31 July, 2025

Sd/-
(Sandeep Gosain)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 31 July, 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