

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

**BEFORE SHRI PAWAN SINGH, JM &
MS PADMAVATHY S, AM**

**I.T.A. No. 3323/Mum/2025
(Assessment Year: 2017-18)**

Rohit Tejraj Jain, B/302, Vishnu Apartment, L T Road, Babhi Naka, Borivali (W), Mumbai-400092. PAN: AHHPJ0775B	Vs.	ITO, Ward-32(1)(1), Kautilya Bhavan, Bandra Kurla Complex, Mumbai-400051.
Appellant)	:	Respondent)

Appellant /Assessee by : Shri Kumar Kale (Virtually
Appear)

Revenue / Respondent by : Shri Annavarani Kosuri, Sr. DR

Date of Hearing : 07.07.2025

Date of Pronouncement : 09.07.2025

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 10.03.2025 for Assessment Year (AY) 2017-18. The assessee raised the following grounds of appeal:

“The following grounds of appeal are independent of, and without prejudice to, one another

1. The Commissioner of Income-tax (Appeals), Income-tax Department, National Faceless Appeal Centre, Delhi (hereinafter referred to as CIT(A)) erred in framing an ex parte order.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have framed an ex parte order.

2. The CIT(A) erred in not deciding the grounds of appeal on merits.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought to have decided the following grounds of appeal -

"The following grounds of appeal are independent of, and without prejudice to, one another-

1. The Officer at National Faceless Assessment Centre, Delhi (hereinafter referred to as the Assessing Officer) erred in determining the total income at Rs 82,46,446 as against Rs 10,40,120 per return of income and consequently, raising a demand of Rs 38,30,250, including interest of Rs 15,80,957 and Rs 16,881 charged under sections 234B and 234D of the Act, respectively.

The appellant contends that the Assessing Officer ought to have accepted the income of Rs 10,40,120 per return of income for the reasons more specifically mentioned in the ground of appeal nos 2 to 5.

2. The Assessing Officer erred in issuing notice under section 148 of the Act.

The appellant contends that on the facts and in the circumstances of the case and in law, the issue of notice under section 148 is without jurisdiction, and hence, bad in law and as such, the assessment order ought to be quashed.

The appellant further, contends that the information available with the Assessing Officer is insufficient and does not suggest that income chargeable to tax has escaped assessment and hence, the notice issued under section 148 is bad in law and thereby, the consequent assessment order needs to be quashed.

3. The Assessing Officer erred in framing the impugned order without providing sufficient opportunity of hearing and as such, the assessment order ought to be quashed.

The appellant contends that on the facts and in the circumstances of the case and in law, the Assessing Officer ought to have provided sufficient opportunity of hearing and having not done so, the assessment order is bad in law and ought to be quashed.

The appellant further, contends that the Assessing Officer erred in ignoring the adjournment request filed by the appellant on 15 February, 2023 in response to the show cause notice dated 09.02.2023 which is against the principles of natural justice and as such, the assessment order ought to be quashed.

4. The Assessing Officer erred in making a disallowance of Rs 22,24,826, being excess interest on loan paid on the ground that the appellant borrowed money despite having sufficient funds.

The appellant contends that on the facts and in the circumstances of the case and in law, the Assessing Officer ought not to have made the impugned disallowance inasmuch as the Assessing Officer has not appreciated the facts of the case in its entirety and hence, the impugned disallowance ought to be deleted

5. The Assessing Officer erred in making addition of Rs 49,81,500, being cash deposited during the period 09.11.2016 to 30.12.2016 on the ground that cash book and bank statements are not submitted to corroborate the genuineness of cash deposited.

The appellant contends that on the facts and in the circumstances of the case and in law, the Assessing Officer ought not to have made the impugned addition inasmuch the Assessing Officer has not correctly appreciated the facts of the case in its entirety and hence, the impugned addition ought to be deleted.

The appellant further, contends that the Assessing Officer ought not to have made the impugned addition inasmuch he has not mentioned any reason as to how the cash deposited is considered as income of the appellant; the impugned addition is without any basis and hence, the same ought to be deleted.

The appellant further contends that the appellant has furnished all bank statements, sales ledger evidencing cash sales and credit sales during the year under reference and explained the source of cash deposited; however, the Assessing Officer ignored the same and made the impugned addition only for the reason that cash book is not submitted and hence, the impugned addition ought to be deleted.

6. The Assessing Officer erred in charging interest Rs 15,80,957 and Rs 16,881 under sections 234B and 234D of the Act, respectively.

The appellant contends that the Assessing Officer ought not to have charged the impugned interest under sections 234B and 234D inasmuch as -

*(a) the Assessing Officer has not given an opportunity to the appellant before charging the said interest as required by the principles of nature justice,
(b) the charging of interest is not in accordance with law.”*

2. The assessee is an individual engaged in the business of Trading in Tiles, Bathware and Sanitaryware Products. The assessee filed the return of income for the AY 2017-18 on 30.10.2017 declaring a total income of Rs. 10,19,120/-. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The Assessing Officer (AO) completed the assessment by assessing the income at Rs. 82,46,446/- by making addition towards interest and cash deposited. Aggrieved the assessee filed further appeal before the CIT(A). Since the assessee did not respond to the notices issued, the CIT(A) upheld the order of the AO ex-parte. Assessee is in appeal before us against the order of the CIT(A).

3. We heard the parties and perused the material on record. The ld. AR before us submitted that the assessee inadvertently missed to forward the notices to the arguing counsel and therefore there was no representation before the CIT(A). The ld. AR further submitted that it is a bonafide error on the part of the assessee and accordingly, prayed for one more opportunity. Considering the facts peculiar to the assessee and in the interest of natural justice and fair play, we are inclined to give one more opportunity to the assessee to represent the case properly before the CIT(A). Accordingly, we are remitting the appeal back to the CIT(A) with a direction to call for necessary details as may be required in order to adjudicate the impugned issue on merits. The assessee is directed to furnish the details as may be

called for by the CIT(A) without seeking a necessary adjournments and co-operative with the appellate proceedings. It is ordered accordingly.

4. In result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 09-07-2025.

Sd/-
(PAWAN SINGH)
Judicial Member

Sd/-
(PADMAVATHY S)
Accountant Member

**SK, Sr. PS*

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai