

**IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR "SMC" BENCH :: NAGPUR**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No. 344/NAG/2025
(Assessment Years : 2016-17)**

Ravi Jaidev Kukreja, Ward 57, Kawar Nagar Lane, Saraswati Villa Apartment, Amravati-444606. PAN: AJRPK 3352 F	Vs.	ITO, Ward-3, Amravati.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri K.P. Dewani, Ld. Advocate
Revenue by : Shri Surjit Kumar Saha, Ld. Sr.D.R.

Date of Hearing : 25.06.2025
Date of Pronouncement : 23.09.2025

ORDER

This appeal has been preferred by the Assessee against the order dated 25/03/2025 impugned herein passed by the National Faceless Appeal Centre (NFAC)/Commissioner of Income Tax (Appeals), Delhi (in short, 'Ld. Commissioner') u/sec. 250 of the Income Tax Act, 1961 (in short, 'Act') for the A.Y. 2016-17.

2. In the instant case, as per information received from credible sources, it was revealed that Assessee though had deposited cash of Rs. 36,90,610/- in Renuka Mata Multi State Urban Co-operative Bank (in short, 'Renuka Mata Society') in the assessment year under consideration, however did not file its return of income. As per search and seizure operation carried out in the case of Renuka Mata Society, it was found that such society has allowed huge cash deposits in the account of its account holders, whose creditworthiness is doubtful and during enquiry proceedings in respect of account holders, in whose accounts substantial cash deposits were made, most were either untraceable or person of very no/low means. Further, transaction pattern shown that bank account is credited by cash deposited and debited by cash withdrawal through ATM.

3. Therefore, the AO reopened the case u/sec. 147 of the Act by recording the reasons for reopening and issued notice dated 31/03/2012 u/sec. 148 of the Act. Assessee admittedly filed its return of income, in response to the notice u/sec. 148 of the Act on dated 31/01/2022 i.e belated and, thereafter, various statutory notices were issued to the Assessee for giving reasonable opportunity of being heard. However, the Assessee made no compliance and, therefore, the AO presumed that the Assessee has nothing to submit in terms of taxation of source of cash deposit of Rs. 36,90,610/- which remained unexplained. Consequently, the AO added the same in the income of the Assessee u/sec. 69A of the Act.

Further, the AO also observed that during the assessment year under consideration, Assessee had declared gross receipts of Rs.77,19,300/-, against which, he declared presumptive income u/sec. 44AD of the Act @ 3.15% of Rs. 2,42,413/-, but according to

the provisions of section 44AD, the Assessee must declare his income from business or profession at least and not below @8% minimum. Thus, the AO determined the presumptive income u/sec. 44AD of the Act @ 8% to the tune of Rs. 3,22,271/-, and added the same in the income of the Assessee.

4. The Assessee, being aggrieved, challenged the said addition by filing first appeal before the Ld. Commissioner, however, of no avail, as the Ld. Commissioner affirmed the aforesaid additions by giving following specific findings:

“That from the assessment order, it is observed that the Assessee has failed to utilize any of the opportunities afforded to him to submit the details called for with substantiation/explanation. It is pertinent to note that the Assessee has filed his return of income only after service of notice u/sec. 148 declaring total income of Rs.2,42,413/-. Moreover, the Assessee has purposely not complied with any of the statutory notices issued to him and also failed to offer income for taxation. The Assessee has failed to offer his explanation with substantiation/documentary proof regarding cash deposit of Rs.36,90,910/- with Renuka Mata Society. In view of the findings/observations of the AO in the assessment order and considering the factual matrix of the case, he found that no interference with the findings/observations of the Ld. AO, in absence of any documentary evidence with clear substantiation, the source of cash deposit of Rs. 36,90,910/- remain unexplained and rightly brought to tax.

The AO rejected the presumptive income u/sec. 44AD of the Act as declared by the Assessee @2,42,413/- and determined the income of the Assessee as presumptive to the tune of Rs. 3,22,271/- which is correct.

And therefore he has no reason to interfere with the findings/observations of the AO”.

5. The Assessee, being aggrieved, challenged the decision of Ld. Commissioner in affirming the aforesaid addition and by filing paper

book containing various documents, such as, "assessment order in the case of Assessee for the A.Y. 2015-16, copy of license under Shop Act, acknowledgment of ITR along with computation of income, copy of bank statement, copy of purchase bills and copy of sale bills with written submissions etc." has claimed that though, the Assessee has filed various documents before the authorities below, but both the authorities below are silent for the reasons best known to them.

6. On the contrary, learned Departmental Representative (DR) refuted the claimed of the Assessee on various reasons.

7. This Court, having heard the parties and perusing the material available on record and giving thoughtful consideration to the rival contentions of the parties, observed that both the authorities below more or less have made and affirmed the aforesaid additions mainly on the reasons of not submitting the relevant documents/not substantiating the claim made by the Assessee, whereas the Assessee has claimed contrary by producing copy of acknowledgment provided by the AO in the assessment proceedings and by the Ld. Commissioner in the appellate proceedings. Admittedly the documents referred to above, somehow remained to be examined and therefore without going into further controversy whether the same were made available or not, this Court is of the considered opinion that above documents are essential for adjudication of the issues involved and thus thorough examination of the same is required for just and proper decision of the case and hence for substantial justice, this Court is inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee.

8. Thus, the case is accordingly remanded to the file of the Ld. Commissioner for decision afresh.

9. The Assessee is also directed to comply with the notices to be issued by the Ld. Commissioner and file relevant submissions/documents as would be essentially required. It is clarified that in case of subsequent default, the Assessee shall not be entitled for any leniency.

10. In the result, Assessee's appeal is allowed for statistical purpose.

Order is pronounced 23.09.2025 as per rule 34(5) of the Income Tax {Appellate Tribunal} Rule 1963.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

vr/-

Copy to: The Appellant
The Respondent
The CIT, Concerned, Nagpur
The DR Concerned Bench

//True Copy//

By Order

Senior Private Secretary
ITAT, Nagpur.