

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "E" Bench, Mumbai.

Before Smt. Beena Pillai (JM) & Shri Omkareshwar Chidara (AM)

ITA No. 4806/MUM/2025 (Assessment Year : 2012-13)

Karsankumar Adaji Mali Saileela Building, 14 th Floor Flat No. 1407, MP Mill Compound, Tardeo Mumbai-400 034.	Vs.	ITO Ward 20(2)(1) Piramal Chambers Dr. SS Rao Marg Parel, Mumbai 400 012.
PAN : BAPPM9416A		
Appellant		Respondent

Assessee by	:	Shri Bharat Kumar
Revenue by	:	Shri Hemanshu Joshi
Date of Hearing	:	09/09/2025
Date of pronouncement	:	25/09/2025

ORDER

Per Omkareshwar Chidara (AM) :-

In the above cited case, the Ld. AO made an addition of Rs. 38.7 lakh towards the cash deposits made by the appellant. The appellant did not respond to the notices of Ld. AO where he was asked to explain the sources of the above cash deposits into his bank account during the A.Y. 2012-13. The appellant did not respond to the notices issued by Ld. CIT(A) during the first appeal. The Ld. CIT(A) confirmed the addition because the appellant is a non-filer and non-compliant to the four notices issued by Ld. CIT(A) too.

2. Aggrieved by the orders of Ld. AO/Ld. CIT(A), the appellant filed an appeal before ITAT with following grounds of appeal :-

1. On the facts and circumstances of the case in law the Id CIT(A) erred in confirming addition of Rs 33,91,500/- on account credit in bank account of the assessee.
2. The Assessee reserves his right to amend modify delete and make any additional grounds of appeals.

3. On the date of hearing before ITAT, the Ld. AR of the appellant has argued that the appellant having a small-scale business in mobile

accessories and deposited the sale proceeds of Rs. 38.7 lakh in his ICICI bank account. It was submitted that the entire sale proceeds cannot be income and deduction should be given to the purchase of goods. As the turnover is less than Rs. 60 lakh, the appellant is eligible to avail presumptive taxation under section 44AD of the I.T. Act and he need not maintain books of account. The written submissions filed by the Ld. AR of the appellant is reproduced below :-

“1. The assessee is engaged in the small-scale business of mobile accessories and is carrying on his business from Room No. 315, Tiranga Building, Opp. Nagpada Road, Mumbai - 400008. The assessee is an uneducated person and not well-versed with modern communication methods such as e-mail correspondence and e-filing compliance.

2. The bank statements reveal that the assessee's customers have deposited sale proceeds in his account from various locations across India, namely Pune, Shirampur, Chandrapur, Palasa, Solapur, Bijapur, Madurai, and Surat.

3. It is pertinent to note that on 16.02.2022, the assessee received Rs. 25,000/- from Raj Comm Electronics and Electrics, which further substantiates that the deposits represent business receipts from sale of mobile articles.

4. After receiving the cash deposits, the assessee immediately withdrew the amounts for purchase of stock-in-trade, thereby supporting the flow of funds for carrying out his small trading business.

5. The assessee submits that no physical notice was received by him at the time of assessment proceedings. Due to his lack of technical knowledge, he was unable to access or respond properly to electronic notices.

6. At the stage of appeal before the learned CIT(A), the assessee had engaged a Chartered Accountant, CA Bharat Kumar. As directed by his counsel, the assessee made efforts to procure and submit the required bank statements from the bank. However, in the meantime, the appeal order came to be passed without proper consideration of the facts and supporting evidence.

7. As per Section 44AD of the Income Tax Act, 1961, where the turnover of an eligible assessee does not exceed Rs. 60,00,000/-, the assessee is not required to maintain regular books of account.

8. For the year under consideration, the assessee's turnover aggregated to Rs. 38,70,190/- as evident from the bank account, which is within the prescribed threshold.

9. On the said turnover, the assessee is voluntarily offering Rs. 25,000/- as income for tax purposes, which is a fair and reasonable declaration considering the small-scale nature of the business.

10. In view of the aforesaid facts and circumstances, it is most humbly prayed that:

a. The bona fide nature of the assessee's business transactions may kindly be accepted.

b. The turnover of Rs. 38,70,190/- as reflected in the bank account may be considered under the presumptive scheme of Section 44AD, and

c. The voluntary Tax offered of Rs. 25,000/- may be accepted on taxable income.”

3. The Ld. DR opposed the arguments of Ld. AR of the appellant and relied on the orders of Ld. AO and Ld. CIT(A).

4. Heard both sides. After perusing the copy of bank account filed by Ld. AR of appellant, it is observed that there are deposits and withdrawals also. On 16.2.2022, there is a deposit of Rs. 25,000/- from on electronic shop which substantiates that the appellant is in the business of mobile articles. It is a settled law that entire sales cannot be treated as profits and purchase cost and expenses are to be reduced while arriving at the net profit which is taxable. As the appellant is a small trader, a lenient view is taken and the offer of the Ld. AR of the appellant on behalf of the appellant that they will pay a tax of Rs. 25,000/- and bring the litigation to an end, is accepted. The appellant is accordingly directed to pay Rs. 25,000/- tax and arrive at the taxable income.

5. The appeal of appellant is partly allowed.

Order pronounced in the open Court on 25/09/2025.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

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

//True Copy//

PS

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai