

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)

I.T.A. No. 2009/Mum/2025
Assessment Year: 2018-19

Baburao Ravji Chavan Ankit Co-op, Hsg. Soc. Ltd., Opp. Kasturi Plaza, Manpada Road, Dombivli (East) PAN:ADTPC1986F (Appellant)	Vs.	Assessing Officer, Ward 3(1), Rani Mansion, Kalyan-421301 (Respondent)
---	-----	--

Appellant by	Shri Nilchandra Kulkarni
Respondent by	Shri Brajendra Kumar, SR. D.R.

Date of Hearing	29.09.2025
Date of Pronouncement	30.09.2025

ORDER

Per: Smt. Beena Pillai, J.M.:

The Present appeal filed by the assessee arises out of order dated 09/01/2025 passed by NFAC, Delhi, for assessment year 2018-19 on following grounds of appeal:

“Based on the facts and circumstances of the case, Mr. Baburao Chavan (hereinafter referred to as 'the Appellant') respectfully craves to provide the following grounds for the appeal being filed against the appeal order dated 9th January 2025 (the Impugned order), passed under Section 250 of the Income-tax Act, 1961 ('the Act') by the National

Faceless Assessment Centre, Delhi (hereinafter referred to as the 'Commissioner of Income-tax (Appeals)' or 'CIT(A)') which are without prejudice to one another.

1. Ground No. 1-Basis for reopening the assessment under section 148 of the Act are inaccurate

1.1. On the facts and in the circumstances of the case and in law, Hon'ble Commissioner of Income-tax (Appeals) has passed an order in breach of the principles of natural justice as CIT(A) has ignored the fact that the alleged informant 'M/s Skysharp IT Solutions Private Limited' was not found at its registered address. Further, even on delivery of the notice, they did not furnish any details relating to bitcoin trading conducted by the Appellant, if any. Thus, the assessment being void ab initio is liable to be quashed.

1.2. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has brutally ignored the mode of investment required for crypto trading and the fact that there were no crypto market transactions appearing in the bank statement of the Appellant. Thus, the additions confirmed are highly misplaced and thus commands deletion.

2. Ground No. 2- No documentary evidence available for making additions in the hands of the Appellant

2.1 On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the income determined by the Learned AO without getting into the facts of the case. Thus, the additions confirmed by CIT(A) ought to be quashed.

3. Ground No. 3-Provisions of Section 69A of the Act are not applicable

3.1 On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the additions under section 68A of the Act by ignoring the fact that the Appellant is not the real owner of alleged investment. Thus, the impugned order is liable to be reversed.

4. *Ground No. 4-Incorrect levy of interest*

4.1. *On the facts and in the circumstances of the case and in law, CIT(A) has incorrectly confirmed the levy of interest under section 234A and 2348 of the Act. Thus, the said addition of interest being unjustified, ought to be deleted.*

5. *Ground No. 5-Initiation of the penalty proceedings*

5.1. *On the facts and in the circumstances of the case and in law, CIT(A) has incorrectly confirmed the initiation of penalty proceedings under section 271AAC of the Act.”*

Brief facts of the case are as under:

2. The assessee is an individual and is trading in spectacles. For the year under consideration the assessee filed his return of income on 25/07/2018 declaring total income of Rs.3,47,350/-.

2.1 Subsequently, the case was reopened by issuing show cause notice under section 148A (b) of the act on 25/03/2022 based on the risk management strategy formulated by the CBDT through ITBA software under the head “high-risk CRI/VRU cases. There was an information with the Department that assessee made bitcoin trading in large volume during financial year relevant to assessment year under consideration amounting to Rs.11,97,187/-.

2.2 The assessee in response to show, notice submitted that one Jitendra Bavdankar and Bhushan Bavdankar made transactions on behalf of the assessee. It was submitted that, assessee did not have any documentary evidences in respect of the same. As the submission of the assessee were not verifiable, the same was not accepted and order under section 148A(d) was passed on

08/04/2022, followed by issuance of notice under section 148 on the even date.

2.3 In response to notice issued under section 148, the assessee filed its return of income on 13/04/2022 that was originally filed. Subsequently, as under section 143(2) along with 142(1) was issued to the assessee calling upon to furnish information in respect of the bitcoin transaction on behalf of assessee.

2.4 The assessee responded that he was frequently approached by Jitendra Bavdankar and Bhushan Bavdankar who used assessee's credentials to trade in crypto currency in the name of assessee but later absconded with all the profits leaving no trail behind. It was submitted that since all transactions were carried out by Jitendra Bavdankar and Bhushan Bavdankar, the assessee has no concrete documentary proof of the same.

2.5 The Ld.AO was informed by the verification unit that M/s. Skysharp IT Solutions Pvt. Ltd., having address at Delhi, had details of the bitcoin trading in the name of the assessee. The Ld.AO further noted from the bank statements provided that the assessee has not revealed the credits and debits and their bank accounts related to the alleged transaction i.e., Sale/purchase of bitcoin. The Ld.AO thus treated the alleged transaction entered in the name of the assessee amounting to Rs.11,97,187/- during the year under consideration as unexplained investment under section 69 of the act.

Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

3. The Ld.CIT(A) endorsed the observations of the Ld.AO and upheld the addition made therein, as assessee did not provide

any evidence to support his contention that assessee was only a name lender wherein KYC of the assessee was used by Jitendra Bavdankar and Bhushan Bavdankar and that the assessee was not aware about the actual transaction.

Aggrieved by the order of the Ld.CIT(A), assessee is on appeal before the *Tribunal*.

4. Before this *Tribunal*, Ld.AR submitted that, the transaction entered into by Jitendra Bavdankar and Bhushan Bavdankar was fraudulent and that the assessee was not aware about the trading carried on by them. He submitted that, assessee for the first time got to know regarding the alleged trading carried out by these people, only upon receipt of the notice under section 148A(b) of the act. The Ld.AR submitted that, the assessee immediately registered in an FIR against the 2 people and the police could not locate the address where these people were residing nor any of their other whereabouts.

4.1 The Ld.AR submitted that it is an admitted position that assessee provided his personal credentials to these people upon trust and faith and on an understanding that, the transactions carried out will be brought to the knowledge of the assessee and profits earned if any, would be shared with assessee.

4.2 However, it is submitted that, since these people never informed about the transactions being carried out in assessee's name, the assessee was absolutely unaware of the trading activity. It is submitted that, the assessee is not even able to get the information by himself regarding the trading activity carried out by Jitendra Bavdankar and Bhushan Bavdankar in his name.

4.3 The Ld.AR submitted that assessee was not involved in the bitcoin transaction which was actually carried out by Jitendra Bavdankar and Bhushan Bavdankar.

4.4 On the contrary the Ld.DR relied on the orders passed by the authorities below.

5. He submitted that assessee could not establish by way of any documentary evidences regarding his innocence. He submitted that assessee was aware about the transaction that was being carried out by Jitendra Bavdankar and Bhushan Bavdankar as it was with assessee himself shared the KYC credentials to these people.

I have perused the submissions of both the sides in the light of the records placed before me.

6. It is noted that, the assessee is in the retail trading of spectacles. The Ld.AO upon receipt of the information from the verification unit regarding the alleged bitcoin transaction, did not carry out any independent verification in order to unearth any unaccounted cash in the hands of the assessee.

6.1 It is noted that the assessee has consistently denied the knowledge of the quantum of alleged transaction by Jitendra Bavdankar and Bhushan Bavdankar. The assessee has also denied the ownership of the trading activity that was actually carried out by Jitendra Bavdankar and Bhushan Bavdankar in the name of assessee. It is an admitted fact that assessee had shared his credentials to Jitendra Bavdankar and Bhushan Bavdankar with an understanding that, the bitcoin trading will be brought to the knowledge of the assessee and profits if any shall be shared with the assessee.

6.2 However since the entire transaction was carried out by Jitendra Bavdankar and Bhushan Bavdankar in the name of assessee, unless there is evidence brought out by the Ld.AO regarding unaccounted cash available with the assessee, the presumption that assessee was involved in the alleged bitcoin trading cannot be imputed. No examination was carried out by the authorities below in order to come to the conclusion that assessee had unaccounted cash that was used for carrying out the bitcoin trading.

6.3 Once the assessee denies a transaction, assessee cannot be told to prove the negative and the onus lies upon the revenue to establish that assessee used his unaccounted cash for carrying out bitcoin trading. Therefore the addition made u/s.69 has no legs to stand in the eyes of law.

I therefore do not find any force in the addition confirmed by the Ld.CIT(A) and the same deserves to get deleted.

Accordingly the grounds raised by the assessee stands allowed.

In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 30/09/2025

Sd/-

**(BEENA PILLAI)
Judicial Member**

Mumbai:
Dated: 30/09/2025
Poonam Mirashi,
Stenographer

Copy of the order forwarded to:

(1)The Appellant

- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai