

IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SHRI ARUN KHODPIA (ACCOUNTANT MEMBER)

I.T.A. No. 4209/Mum/2025
Assessment Year: 2012-13

Malay Chandra Biswas 902, Benvic Villa, 2 nd Domnic Lane, Oriem, Malad West, Mumbai-400064 PAN: AFJPB5679N (Appellant)	Vs.	DCIT Circle 12(1)(2) Aaykar Bhavan, Maharshi Karve Road, Churchgate, Mumbai-400020 (Respondent)
--	-----	--

Appellant by	Shri Kirit Sheth
Respondent by	Shri Annavaran Kasuri, SR. A.R.

Date of Hearing	03.09.2025
Date of Pronouncement	28.10.2025

ORDER

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

The present appeal filed by the assessee arises out of order dated 18/06/2025 passed by Ld.CIT(A)-2, Vadodara for assessment year 2012-13 on following grounds of appeal :

“ *Ground 1 The Id. Addl/Joint CIT (A) has erred in upholding the disallowance of professional fees of Rs. 42,09,000 paid by 1 the appellant. Your appellant respectfully submits that on facts and in*

law the disallowance of professional fees of Rs. 42.09,000 is uncalled for and should therefore be deleted in toto.

Ground 2- The Id. Addl./Joint CIT (A) has erred in not allowing the appellant's repeated request for personal hearing through video conferencing so as to make his oral submissions OR present his case. Your appellant respectfully submits that the 2 denial of personal hearing through video conferencing is not only a violation of the principle of natural justice but is also a violation of para 13 (2) read with para 13 (3) of e Appeals Scheme, 2023 which is notified u/s. 246 (5) of the IT Act. Consequently, the impugned order is unsustainable.

Ground 3- The Id. Addl./Joint CIT (A) has erred in not providing a copy of AO's remand report dated 19th September 2017 to the appellant and thereby erred in denying an opportunity to the appellant to make his submissions in response 3 to the findings/observation recorded in the remand report. Your appellant respectfully submits that denial of opportunity to make submissions in response to the findings/observation recorded in the remand report is a violation of the principle of natural justice. Consequently, the impugned order is unsustainable.

Ground 4-The Id. Addl./Joint CIT (A) has erred in recording the following factually incorrect finding on page 12 of the impugned order: "Therefore, the appellant's claim that fresh evidence have been produced at the stage of appellate proceedings which were not produced before the AO are false". Your appellant respectfully submits that the Id. AO and the Id. Addl./Joint CIT (A) should not have overlooked / ignored various additional evidences namely (a) tabular chart providing one to one relationship between the professional fees / brokerage earned and corresponding professional fees/brokerage paid (b) documentary evidences related to Yadav Pujara and Shah, Chartered Accountants (c) documentary evidences related to Real Connect Properties and (d) documentary evidences related to Wisteria Trading Pvt Ltd."

Brief facts of the case are as under:

2. The assessee is an individual and is director in Brainer Impex Ltd., and declared income from salary, business, house, property and other sources during the year assessee filed its

return of income on 25/07/2013 declaring total income at Rs.66,55,012/-. The Said return was processed u/s.143(3) of the Act and the case was selected for scrutiny.

2.1 The Ld.AO found that, assessee claimed expenses to the tune of Rs.42,09,000/- as professional fees paid to certain entities. Accordingly, notice was issued to the assessee calling upon to furnished details of the professional fees paid, nature of the fees and its allowability. The assessee vide submission dated 26/03/2015 submitted the details of the professional fees along with invoices. The Ld.AO after considering the submissions made addition in the hands of the assessee of Rs. 42,09,000/-. The Ld.AO disbelieved the explanation offered by the assessee in respect of the parties to whom the professional fees were paid and treated it to be bogus and unexplained.

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

3. Before the Ld.CIT(A) assessee furnished additional evidences that included confirmation from the professionals who rendered services, along with their acknowledgment of profit and loss return of income filed during the year under consideration. The Ld.CIT(A) called upon Ld.AO to furnish remand report. Upon receipt of the remand report the Ld.CIT(A) sustained the additions by observing that the professional fees paid amounting to Rs.42,09,000/- were nature of accommodation entries.

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

4. The assessee submitted that it is engaged in the service of providing credit facilities, for which assessee seeks assistance from professionals to whom the payment was made for the services rendered. He submitted that, the returns filed by the assessee includes professional fees paid against which, the assessee earned income of Rs.95,57,930/-.

4.1 He submitted that, these expenses are not bogus as the assessee raised invoices for rendering professional services to its customers. The fee received from the customers is partly paid to the intermediary and partly to the professionals after deduction the TDS. The Ld.AR submitted that, all the relevant documents are placed in the paper book at page 29-39 along with their confirmations at pages 40-114.

4.2 It is submitted that all the above details were furnished before the Ld.CIT(A) and were not considered in the remand proceedings. He also submitted that, a video conference request was made was also not granted.

5. On the contrary, the Ld.DR submitted that, the business of the assessee is to arrange loan and to provide finance service to its customers. He submitted that, the alleged professional fee paid by the assessee in respect of alleged services rendered to arrange debt funding. He submitted that the professionals fees paid dose not commensurate that the services rendered by them and therefore the Ld.AO is right in treating the same bogus. He submitted that what kind of services were rendered by these parties were not established by the assessee and merely filed confirmation and other documents that are actually self serving documents.

We have perused the submissions advance by both sides in the light of record placed before us.

6. It is noted that, the submissions filed by the assessee has not been verified by the authorities below in accordance with law. In the interest of justice we deem it appropriate to remit this issue back to Ld.CIT(A) with a direction to pass detailed order on merits after verifying relevant document/evidence of the assessee in accordance with law.

Needless to say that proper opportunity of being heard must be granted to the assessee.

Accordingly the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 28/10/2025

Sd/-

**(ARUN KHODPIA)
Accountant Member**

Sd/-

**(BEENA PILLAI)
Judicial Member**

Mumbai:
Dated: 28/10/2025
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