



**आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकर अपील सं./ITA Nos. 294/RJT/2025**  
**(Assessment Year: 2013-14)**  
**(Hybrid Hearing)**

<b>Chetanbhai Chhaganbhai Sojitra</b> Village Motiveraval Near Main Road, Lalpur, Jamnagar, Gujarat-361012	<b>Vs.</b>	<b>Income Tax Officer</b> Ward-1(5), Jamnagar
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: GWGPS7389N</b>		
<b>(अपीलार्थी/Assessee)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारितकीओरसे/Assessee by : Shri Chetan Agarwal, Ld. AR  
राजस्वकीओरसे/Revenue by : Shri Abhimanyu Singh Yadv, Sr. DR  
**सुनवाईकीतारीख/ Date of Hearing : 27/08/2025**  
**घोषणाकीतारीख/Date of Pronouncement : 21/11/2025**

**आदेश/ORDER**

**Per, Dr. A. L. Saini, AM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2013-14, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax



(Appeals), (in short 'CIT(A)'), dated 24/03/2025, which in turn arises out of an order passed by the Assessing Officer dated 28/03/2022, u/s. 147 r.w.s. 144B of the Income Tax Act, 1961 (in short, 'the Act').

2. The Grounds of appeal raised by the assessee are as follows:

- “1. *The ld. CIT(A) erred in law as well on fact in setting aside the assessment order to ld.AO for fresh assessment treating the same as ex-parti order, which is factually incorrect.*
2. *The ld. CIT(A) erred in law as well on fact in not deleting addition of Rs.37,82,840 considering circumstance and facts of the case.”*

3. Brief facts, as discernible from the orders of lower authorities are that assessee before us, is an individual and had not filed return of income for the year under consideration (for A. Y. 2013-14). The Information in the possession of the department was received from Insight Portal (ITBA system) related to transactions mentioned in STR wherein it had been revealed that the assessee had deposited amount in his bank accounts maintained with HDFC Bank, Jamnagar. On the basis of this information, during the investigation proceedings, ADIT(inv) Jamnagar had issued summon to the assessee, in response to which, the assessee had attended but failed to submit any details regarding the cash deposit and other credits reflected in his above bank accounts for his business transactions (as claimed by assessee). The assessee had not produced any bill or voucher for his business transactions as required by the investigating officer. Therefore, the source of the cash thus deposited remained unexplained and the assessing officer formed his reasons to believe that income with respect to the assessee had escaped assessment during the year. The case was accordingly opened



for re-assessment within the meaning of Section 147 of the Income Tax Act 1961 (hereinafter referred to as the Act) after obtaining due approval from the Competent Authority.

4. Further, a notice u/s 142(1) of the Act was issued to the assessee on 28-01-2022, vide which the assessee was explained about the invalid nature of his return of income, claimed to have been filed by him and he was requested again to comply with e-proceedings. The assessee responded on 29-01-2022 to the Assessing Officer. A draft assessment order was prepared accommodating the proposed additions of the FAO and a Show Cause Notice was issued to the assessee on 13-03-2022. The assessee responded to the said SCN on 14-03-2022, to the assessing officer. Accordingly, the reply offered by the assessee is found to be devoid of merits and hence rejected. It was seen by the assessing officer from the invalidated return of income submitted by the assessee in e-filing portal that he has opted for the presumptive income scheme as per Section 44AF of the Act. The same claim has been made by the assessee in his submissions. As per the provisions of Section 44AF(6) the Act the same is effective only up to AY. 2010-11. However, since the return is invalid ab-initio, no adverse inference is drawn from this false claim of the assessee. However, the AO noted that the assessee in his submissions has furnished only the bank statement as evidence and has claimed that he had been involved in the business of trading of brass components and all the credits in his bank accounts were proceeds of sale of those components, deposited by purchasers from various cities across the country. The assessee has also claimed that his withdrawals were his purchases for his business. This stand of the assessee and the bank



account transaction details were already with the assessing officer before commencement of assessment proceedings. The assessee has only reiterated his earlier submission before the investigation wing. Therefore, the AO held that the money to the tune of Rs. 37,82,840 /- is deemed to be the income of the assessee for the year under consideration, as unexplained money, within the meaning of Section 69A of the Act and brought to tax within the meaning of section 115BBE of the Act.

5. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A). During the appellate proceedings, the assessee filed response before Id.CIT(A), vide letter dated 20.12.2022 submitting written submission. In written submission, the assessee had submitted that the assessee is an individual engaged in the business of trading of brass part components and had not filed his return of income as income was below taxable limit for the year under consideration. In response to notice u/s 148 of the Act, the assessee filed his return of income on 26.04.2021. However, due to technical issues the assessee was unable to E-Verify the same. The assessee has declared profit @ 5% on turnover of Rs. 37,82,840/- as per provision of presumption section 44AF of the Act. However, the Id.CIT(A) as per the amendment of section 251 of the Income-tax Act, sub-section (1), clause (a), with effect from the 1st day of October, 2024, had set aside the assessment order and the case of the assessee was referred back to the Assessing Officer for making a fresh assessment.



6. Aggrieved by the order of ld. CIT(A), the assessee is in appeal before us.

7. Learned Counsel for the assessee argued that before the assessing officer, the assessee submitted written submission along with documents and evidences, however the assessing officer has not considered the same and made addition. Even the ld. CIT(A) has not considered the documents and evidences submitted before the assessing officer. The ld. Counsel submitted that assessee is a dealer and depositing the cash in bank account, as the assessee is trading in brass material and therefore directly the dealers of the assessee, have deposited the cash in his bank, which is trading receipt, however the A.O. has made entire addition of such trading receipts. Therefore, the ld. Counsel submitted that the estimated rate of 5% may be made in the hands of the assessee.

8. On the other hand, ld. D.R. submitted that the if the Bench wants to make estimated addition, then it should be 10% on the total cash deposited in the bank account.

9. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position. In our considered view, it was wholly erroneous on the part of the assessing officer to make hundred percent addition of the trading receipts deposited in the bank account of the assessee. We note that assessee is in the business of trading of brass components and all the credits in his bank accounts were proceeds of sale of those components, deposited by



purchasers from various cities across the country. The assessee has also claimed that his withdrawals were his purchases for his business. This stand of the assessee and the bank account transaction details were already with the assessing officer before commencement of assessment proceedings. Besides, the assessee had also submitted written submissions along with documentary evidences before the assessing officer, which the assessing officer had not considered. We note that entire cash deposit in the bank account on account of trading activity of the assessee should not be added in the hands of the assessee and only profit element should be taxed. We find that assessee is a small businessman, and that is why, he filed his return of income under section 44AF/44AD of the Act. Therefore, considering the fact that assessee is in the category of small taxpayers, hence, we estimate the profit on the cash deposited in the bank account @ 8%, therefore, we direct the assessing officer to make the addition in the hands of the assessee @ 8% of trading receipts deposited in the bank account by his customers.

10. Since the assessee`s customers have deposited the amount directly in the assessee`s bank account, which is trading receipt and should be taxable under the head income from business and profession, hence, we direct the assessing officer to make addition @ 8% of trading receipts deposited in the bank account by his customers, by applying the normal rate of income tax, and not under section 115BBE of the Act.

11. Since we have adjudicated the issue, considering the peculiar facts and circumstances of the assessee`s business, therefore, it is made clear that



instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year.

12. In the result, the appeal of the assessee is partly allowed, in above terms.

Order pronounced in the open court on 21-11-2025

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(A. L. SAINI)**  
**ACCOUNTANT MEMBER**

**//True Copy//**

Rajkot

Dated: 21/11/2025

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Rajkot
6. Guard file.

By order/आदेश से,

Assistant Registrar/Sr. PS/ PS  
ITAT, Rajkot