

**IN THE INCOME-TAX APPELLATE TRIBUNAL “A” BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.5454/MUM/2025
(A.Y. 2013-14)**

Anant Electricals and Engineers, 5, Yadav Estate, M. Karve Road, Behind Godrej Showroom, Naupada, Thane- 400602, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Circle – 1, Thane, 6 th Floor, Ashar IT Park, Road No. 16Z, Wagle Estate, Thane(W) – 400 604, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAOFA3415F		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Subodh Ratnaparkhi, AR
Respondent by :	Shri Surendra Mohan, (Sr. DR)

Date of Hearing	11.12.2025
Date of Pronouncement	22.12.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 30.06.2025 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax, Appeal, ADDL/JCIT(A) Faridabad [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 28.06.2019 for the Assessment Year [A.Y.] 2013-14.



2. The grounds of appeal are as under:

On the facts and in law,

1. *The re-opening of assessment u/s 147 of the IT Act 1961, by issue of notice u/s 148 on 24.01.2019, being not as per law, the notice u/s 148 dt 24.01.2019, as well as the order of assessment flowing therefrom being the assessment order dated. 28.06.2019 is required to be struck down as bad in law.*
2. *The Hon CIT(A) erred in upholding the addition of Rs. 11,45,262/- made by the Id AO by partly disallowing remuneration to working partners, by incorrectly applying the provisions of section 40(b) of the I.T. Act 1961. The addition of Rs. 11,45,262/-, being not as per law, is required to be deleted.*

3. Facts of the case are that of the assessee firm an electrical supplier of high tension electrical goods, had originally filed return of income for the year on 28.09.2013 declaring total income of Rs. 46,63,160/- which was revised to Rs. 46,63,160/-. The assessment was completed u/s 143(3) of the Act determining the total income of Rs.49,06,640/- as against the returned income of Rs. 46,63,160/-. Later on, from perusal of case record it was noticed by the AO that the assessee had computed salary/remuneration on the book profit of Rs. 1,16,63,163/-, which included the interest income on FD of Rs.20,55,267/-. However, as per Explanation 3 of section 40(b), the interest income on FD of Rs.20,55,267/- should have been excluded from book profit while calculating book profit. Further, the assessee had claimed remuneration to the partners of Rs. 70,00,000/-, whereas after excluding the interest income from book profit, the remuneration



worked out to Rs. 58,54,738/-. Thus, it was observed that excess remuneration of Rs. 11,45,262/- has been claimed by the assessee. This has resulted under assessment of Rs. 11,45,262/-. Accordingly, notice u/s.148 of the Act was issued and the reason for the re-opening of the assessment was supplied to the assessee. The submission of the assessee were considered but were not acceptable as the claims made by the assessee are not supported by any documentary evidences. The claim of the assessee that the FDRs were made to avail facilities from bank like bank guarantee, Bill discounting, over draft etc by pledging these FDRs as security or collateral security, was without any specific details and supporting documents. Further, the assessee itself had claimed said interest on FD of Rs. 20,55,267/- under the head Income from 'Other sources' in the returned of income filed on 31.01.2015. The nature of income under the head of Interest of FDRs was clearly covered under the head 'Income from other sources' and not under the 'Income from Business'. Therefore, the Interest Income from FDR was not covered in Book Profit' for working of remuneration to partners. As per Explanation 3 to section 40(b), "The Book Profit' means the net profit, as shown in Profit & Loss A/c for the relevant previous year, computed in the manner laid down in Chapter IV D as increased by....." The income from interest on FDR was covered under chapter IV-F and



therefore, the same was not eligible to work out the book profit. Therefore, the allowable remuneration was recomputed by the AO resulting in excess claim of remuneration of Rs. 11,45,262/- which was disallowed and added back to the total income of the assessee.

4. Aggrieved, the assessee filed appeal before the Id.CIT(A) challenging the reopening u/s 147/148 of the Act on legal and also on merits of the case. The appeal filed by the assessee was decided on the basis of documents available on record. It is stated that the statement of facts, grounds of appeal, order appealed against, written submissions and copies of documentary evidence/explanations have been thoroughly examined. In respect of validity of reopening, the Id.CIT(A) relying on the decision of Hon'ble Apex Court in the case of Raymond Woollen Mills Ltd. v. ITO And Others [1999] 236 ITR 34 (SC)/[1999] 152 CTR 418 (SC)], held that the action taken by the Assessing Officer was right and thus, ground of appeal was dismissed.

4.1 As far as merits of the case are concerned, he observed that the income of Interest on FDRs is covered under the head "Income from Other Sources and is computed in the manner laid down in Chapter IV-F of the Act. Also, the assessee had not relied on any supporting documentary evidence to defend its contention. Accordingly, the grounds of appeal was dismissed.



5. Before us, the ld.AR has contented that the ld.CIT(A) did not take into account the written submission and other supporting details and dismissed the appeal without examining the issues involved, replies of the assessee. In this regard, the ld.AR has also submitted a paper book in this regard. The ld.DR has relied on the orders of the authorities below and has also submitted that the entire issue may be sent back to the file of the ld.CIT(A) for fresh consideration.

6. We have carefully considered all the relevant facts of the case. On perusal of the appellate order, it is quite evident that the same has been passed by the ld.CIT(A) in a non-speaking manner and without properly examining the facts of the case, the findings and decision of the AO and a the submissions of the assessee in this regard. No independent application of mind is discernible from the appellate order as the ld.CIT(A) has completely failed to evaluate the points of consideration so as to give his own decision on objective analysis of all relevant facts and circumstances of the case in utter disregard to the principles of natural justice and fair play.

7. In the light of above facts, we are of the considered opinion that the ld.CIT(A) has not decided the appeal on merits which is contrary to the mandate of section 250(6) of the Act which is reproduced here under for your ready reference:



“(6) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

7.1 A bare perusal of above provision makes it clear that the CIT(A) is bound to dispose of the appeal before him on merits. Once an appeal is preferred before him, then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him as per section 250(4) of the Act. Section 251(1)(a) and (b) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. The appellate order is therefore, deficient in this regard. Accordingly, in the substantial interest of justice, we set aside the appellate order and restore the entire matter back to the Id.CIT(A) for passing the appellate order *de novo* after allowing adequate opportunity of hearing to the assessee.

8. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id.CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by him independently and in accordance with law.



9. In the result, the appeal is allowed for **statistical purposes**.

Order pronounced in the open court on **22/12/2025**.

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 22.12.2025

Lubhna Shaikh / Steno

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

