

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.5080/M/2025
Assessment Year: 2020-21**

Shiva Ramprasad Nirmal, E-2/202 Gaurav City, Beverly Park, Mira Bhayander Road, Mira Road East, Thane, Maharashtra – 401107. PAN – ADTPN8556A	Vs.	Office of the Income Tax Officer Ward 2(1), Asher IT Park, 6 th Floor, Road No. 16Z, Wagle Industrial Estate, Thane West, Thane – 400604.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vimal Punmiya, Ld. A.R.
Revenue by : Smt. Usha Gaikwad, SR. D.R.

Date of Hearing : 19.11.2025
Date of Pronouncement : 12.01.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated **26.06.2025**, impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2020-21.

2. In the instant case, the Assessee had declared total income of Rs.5,81,630/- by filing his return of income for the assessment year under consideration, which was selected for e-verification scheme 2021 as per the provision of Section 135 (a) of the Act. During the verification, it was found that the Assessee has not responded to the notices issued, except seek adjournment and as per the

information the Assessee has disclosed gross receipts of Rs.85,15,000/- under Section 44AD of the Act and offered income of Rs.6,20,900/- i.e. @ 7.29% and gross receipts of Rs.3,30,000/- under Section 44AD of the Act and offered income of Rs.1,75,600/- i.e. @50%, totaling to Rs.7,96,500/-. Further the receipts i.e. professional charges do not match with the actual receipts. Even gross receipts offered was more than the total receipts of Rs.3,93,600/- as provided for verification.

3. Subsequently, the case of the Assessee was reopened under Section 147 of the Act by issuing a notice 26.03.2024 under Section 148 of the Act. The Assessee in response to such notice filed his return of income on 25.06.2024, declaring income of Rs.6,61,230/-. Thereafter, various opportunities were provided to the Assessee and the Assessee filed certain documents.

4. On perusing the case of the Assessee and the details available on record, the Assessing Officer observed that the Assessee has claimed that he has registered under GST under the category of other professional, technical and business services and receipts were from the production houses and media companies and not from rental income of immovable property. The debtors have deducted the TDS under Section 194 (i) (a) and 194 (i) (b) of the Act, inadvertently.

5. The Assessing Officer, however observed that the Assessee has not submitted any supporting documentary evidence substantiating his claim qua shooting locations provided for televisions, commercial and photography production, till passing of the assessment order on date 24.03.2025 and therefore, he

ultimately treated the amount of **Rs.34,53,100/-** as income from house property and after giving standard deduction of 30% of the rental income, made the addition of **Rs. 24,17,170/-** as income from house property of the Assessee.

6. The Assessee being aggrieved challenged the said addition by filing first appeal before the Ld. Commissioner and reiterated the same contentions, as raised before the Assessing Officer.

7. As per Ld. Commissioner, the Assessee has sent a reply stating "gathering of documents" and despite allowing numerous opportunity of being heard and video conference three occasions, the Assessee failed to provide any supporting evidence except related to the amount of **Rs.1,41,600/-** only and therefore, the Ld. Commissioner by observing that the Assessee has not been able to provide any piece of evidence for the remaining amount, sustained the remaining addition of **Rs. 25,58,770/-**.

8. Thus, the Assessee being aggrieved has preferred the instant appeal.

9. Heard the parties and perused the material available on record. It is admitted fact that the parties to whom the Assessee has provided the locations, have made the payments by deducting the TDS under sections 194-I(a) and 194-I(b) of the Act, which pertains to the rental income from the house property. The Assessee thus has claimed that such parties deducted the TDS under the said provisions of the Act, may be inadvertently or otherwise.

10. This Court observes that authorities below, have specifically mentioned in the respective orders that the Assessee failed to file

bills and vouchers from the relevant parties, in respect of amount of **Rs.34,53,100/-** and therefore on being asked specifically by this Court, as to whether there was any contract and/or any entry or details of Register maintained for providing the services by the Assessee to its customers. The Assessee claimed that the Assessee is a small businessman and providing premises for a shorter period may be sometimes for 1 hour to 24 hrs. or for a longer period but not for the continuous period and therefore, business of the Assessee cannot be termed as 'house renting business'. Further, the Assessee during the proceedings before the authorities below has filed various relevant documents, as claimed, however from the paper book filed, containing various documents {pages 1 to 262}, the Assessee has certified as under:

"This is to certify that some of the above documents are filed before the Ld. A.O. and the Ld. CIT (A)"

11. From the said facts and certifications, it is not clear, which documents were made available to the AO and the Ld. CIT and which documents are being filed first time before this Court.

12. However, perusing the documents, this Court of the considered opinion that the documents filed in the paper book, *prima facie* appears to be essential for proper and just decision of the case. Thus, considering the peculiar facts and circumstances in totality, for just and proper decision of the case and substantial justice, this Court is of the considered view that issue involved requires afresh adjudication, by considering the claim of the Assessee and relevant documents, as sought for by the authorities below earlier and as filed before this Court, which the Assessee undertakes to file before the Assessing Officer.

13. Thus, the case is remanded to the file of the **Jurisdictional Assessing Officer {JAO}** for decision afresh, suffice to say by considering the documents to be filed as filed before this Court and affording reasonable opportunity of being heard to the Assessee.

14. The Assessee is also directed and thus undertakes to file before the **JAO**, the relevant documents, as demanded by the Assessing Officer earlier, as well as filed before this Court in the form of paper book.

15. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 12.01.2026.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Tarun Kushwaha
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.