

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

ITA No.5854/Mum/2025
(Assessment Year: 2010-11)

Shree Vagad Visha Oswal Chovisi Mahajan Charitable, 103, 1 st Floor, Shree Parimal, Daftary Road, Malad East, Mumbai - 400097	Vs.	Assistant Director of Income Tax-II(2), Mumbai
(Appellant)	:	(Respondent)
PAN NO. AAATS 1843D		

Appellant by	:	Shri S.D. Chheda, CA
Respondent by	:	Shri Arun Kanti Datta, CIT-DR
(Appellant)		(Respondent)

Date of Hearing	:	13.01.2026
Date of Pronouncement	:	19.01.2026

ORDER

Per Saktijit Dey, Vice President:

This is an appeal by the assessee against an order dated 31.07.2025 of National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year (AY) 2010-11.

2. In Ground Nos. 1 and 2, the assessee has challenged the validity of reopening of assessment under Section (u/s.) 147 of the Income Tax Act, 1961 (in short the ‘Act’). Whereas, the rest of the grounds are on merits.

3. At the outset, we propose to deal with the legal issue raised in Ground Nos. 1 and 2 and if warranted, the other grounds would be dealt with.

4. The relevant facts necessary are for deciding the legal issue raised in Ground Nos. 1 and 2 are, the assessee is a Trust. For the assessment year under dispute, the assessee had filed its return of income on 29.09.2010, declaring NIL income after claiming exemption. Subsequently, based on information received that the assessee had deposited cash of Rs.73,29,684/- in his Saving Bank Account with Cosmos Cooperative Bank Ltd., Malad Branch, which has not been offered to tax, the Assessing Officer (AO) reopened the assessment u/s. 147 of the Act. Ultimately, assessment was completed u/s. 147(3) r.w.s. 147 of the Act vide order dated 28.03.2013, determining the total income at Rs.1,03,54,997/- by disallowing assessee's claim of exemption u/s. 11 of the Act. The income so determined also included addition of Rs.33,71,151/-, being unexplained cash deposits in the Bank account. Against the assessment order so passed, assessee preferred an appeal before the learned First Appellate Authority *inter-alia* challenging the validity of reopening of assessment u/s. 147 of the Act. However, the legal issue raised by the assessee did not find favour with First Appellate Authority, though he grant partial relief to the assessee on merits.

5. Before us, learned counsel appearing for the assessee drew our attention to the reasons recorded by the AO for reopening of assessment copy of which is placed at page no. 34 of the paper book. He submitted, as per the reasons recorded, the income escaping assessment was an amount of Rs.73,29,684/- representing cash deposits in Saving Bank Account with Cosmos Cooperative Bank Ltd., Malad Branch. He submitted, the reasons recorded itself indicate that the cash was deposited on

31.03.2009 falling in previous year 2008-09 corresponding to AY 2009-10. Therefore, based on such reasoning assessment for AY 2010-11 could not have been reopened. He submitted, even the amount of cash deposits mentioned in the reasons recorded was entirely added in the assessment order passed for AY 2009-10, which was deleted by the First Appellate Authority while deciding the appeal of the assessee. Thus, he submitted, the reopening of assessment is totally mechanical and based on invalid reasons. Thus, he submitted, the reopening of assessment u/s. 147 of the Act should be declared as invalid and the assessment order be quashed.

6. The learned Departmental Representative (DR) relied upon the observations of learned First Appellate Authority.

7. We have considered rival submissions and perused the materials on record.

The reasons recorded by the AO for reopening the assessment read as under:-

“In this case, an information received from the Dy. CIT Range 24(2), vide letter no. DCIT 24(2)/intimation/2011-12 dated 23/09/2011 that the assessee trust has deposited cash of Rs. 73,29,684/- on 31/03/2009 in saving account with the Cosmos Co-Op Bank Ltd., Malad Branch in its accounts no. 0460501013545 and 04605010143951 INR. Therefore, it is reason believe that assessee trust has carried business activities with the name of trust and deposited huge unaccounted cash in bank accounts i.e. Rs.73,29,684/- In view of this an amount of Rs. 73,29,684/- is an escape income and therefore notice u/s. 148 of the I.T. Act issued.”

8. As could be seen for the reasons recorded, the AO reopened the assessment solely for the reason that income to the tune of Rs.73,29,684/- representing cash deposits made on 31.03.2009 in Saving Bank Account held Cosmos Cooperative Bank Ltd., Malad Branch has escaped assessment. It is further relevant to observe,

a common/combined reason has been recorded for reopening the assessments for AYs 2009-10 to 2010-11.

9. What is relevant to note here is in the reasons recorded, the AO himself has stated that the alleged cash deposit of Rs.73,29,684/- was made on 31.03.2009 falling in Financial Year (FY) 2008-09 corresponding to AY 2009-10. Thus, based on such reasoning, the AO, if at all, could have reopened the assessment for AY 2009-10 as, the reasons recorded did not disclose any escaped income for AY 2010-11. Therefore, in our considered opinion, the reopening of assessment u/s. 147 of the Act for AY 2010-11 is without any valid reason hence unsustainable. Accordingly, we hold the reopening of assessment u/s. 147 of the Act wholly without jurisdiction. Consequently, we quash the assessment order and the order of learned First Appellate Authority is set aside. Since, we have decided the appeal on the legal issue the other grounds having become academic, are kept open.

10. In the result, appeal is allowed as indicated above.

Order pronounced in the open court on 19/01/2026.

Sd/-
(Jagadish)
Accountant Member

Sd/-
(Saktijit Dey)
Vice President

Mumbai; Dated : 19/01/2026

Aks/-

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai