

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

BEFORE SHRI PAWAN SINGH, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No. 4291/Mum/2025
(Assessment Year: 2017-18)

ITO-42(1)(3), Room No. 735, 7 th Floor, Kautilya Bhavan, C-41 to C-45, G Block, Bandra Kurla Complex, Bandra (E), Mumbai-400051.	Vs.	Nipul Sureshchandra Mehta, A-13, Chandra Darshan, Kandivali (East), Mumbai - 400101 PAN: AJKPM2089E
Revenue -अपीलार्थी / Appellant	:	Assessee - प्रत्यर्थी / Respondent

Assessee by : Shri Sanjay A. Thakkar &
Shri Kaustubh Karkhanis, AR

Revenue by : Shri Leyaqaat Ali Aafaqui, Sr. DR

Date of Hearing : 06.01.2026

Date of Pronouncement : 19.01.2026

ORDER

Per Arun Khodpia, AM:

The captioned appeal is preferred by Revenue to assail the order of Commissioner of Income Tax(Appeals) / National Faceless Appeal Centre (NFAC) (for short “The Ld. CIT(A)”), dated 26.05.2025, for the Assessment Year (AY) 2017-18, arises from assessment order passed u/s 144 r.w.s. 142(1) of Income Tax Act, 1961 (for short “The Act”), dated 06/12/2019, by ITO-33(2)(4), Mumbai.

2. The grounds of appeal raised by the Revenue are as under:

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made of Rs. 1,20,6,499/- as unexplained money u/s. 69A of the I.T. Act, 1961 by the AO in respect of total credit deposits in the bank account of the assessee.

3. In this matter the assessment was passed on 06.12.2019 under section 144 of the Act, wherein the assessee was totally non-compliant, however before the ld. CIT(A), assessee had made submissions including evidence and information, accordingly, the addition made by ld. AO under section 69A of the Act was deleted by the ld. CIT(A) after discussing such details and explanations. The revenue has raised the grievance that the entire submissions are first time made before the ld. CIT(A), which were never shared with the Ld. AO seeking his comments under a remand report. It was, thus, a violation and grave ignorance of provisions of Rule 46A of the Income Tax Rules, 1963. Under such circumstances the matter needs to be re-visited by the Ld. AO, so that the evidence, information and submissions furnished can be looked into, examined and commented by the AO to reach on a logical conclusion.

4. In response to the aforesaid submissions on behalf of the revenue by ld. Sr. DR, ld. AR of the assessee submitted that there might be some reference to Ld. AO about the information first time furnished before the ld. CIT(A), though nothing is emanating from the order of ld. CIT(A). Further, Ld AR, confirmed that there was no communication by ld. AO *qua* the remand proceedings, therefore the assessee is not in a position to explain, whether

remand report was called for from the Ld. AO or not. It is further submitted that the ld. CIT(A) had thoroughly examined the facts, evidence and issue vis a vis documents on record, therefore, the order of ld. CIT(A), which was just and under proper appreciation facts, deserved to be upheld.

5. We have considered the rival submissions and perused the material available on record and the orders of revenue authorities. Admittedly, in present case the compliance of Rule 46A was found to be ignored by the ld. CIT(A), further there is nothing on record to suggest that the Ld. AO has examined all such documents, which are first time produced before the ld. CIT(A). From such facts and circumstances, it can be construed that the principle of natural justice, in terms of compliance of Rule 46A was violated at the end of Ld. CIT(A). We thus are of considered view that matter shall be re-visited by the AO in the interest of substantial justice, and rightly so, agreed by both the parties also. Accordingly, the matter is restored back to the file of Ld. AO for fresh adjudication.

6. Needless to say, the assessee shall be provided with reasonable opportunity of being heard. The assessee is directed to co-operate in the set aside proceedings before the Ld. AO, without any fail, else the Ld. AO would be at liberty to decide the issue in accordance with the mandate of law.

7. In result, appeal of revenue is allowed for statistical purposes in terms of our aforesaid observations.

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

Sd/-
(PAWAN SINGH)
Judicial Member
Mumbai, Dated : 19-01-2026.
**SK, Sr. PS*

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai