

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 5315/MUM/2025
Assessment Year: 2014-15**

Modi Home Products Limited
Second Floor, Akash Ganga,
89, Bhulabhai Desai Road,
Mumbai- 400026

**PAN NO. AAACM 4151 D
Appellant**

Vs. Income Tax Officer,
Ward 5(2)(3),
Mumbai- 400020

Respondent

Assessee by : Mr. Anil Kumar Jain (Virtually
Present)

Revenue by : Mr. Leyaqt Ali Aafaqui, SR. AR

Date of Hearing : 09/12/2025
Date of pronouncement : 19/01/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 09.07.2025 passed by the Ld. Commissioner of Income-tax (Appeals)-National Faceless Appeal Centre- Delhi [in short 'the Ld.CIT'] for assessment year 2014-15, raising following grounds:-

"The Ld CIT(A) has erred in partly confirming the additions made in the assessment order passed by the Ld Ld.AO.

2. The Ld. CIT(A) has erred in confirming the disallowance of Rs 617138 on account of bad debts debited in profit and loss account, on adhoc/estimate basis.



3 The Ld CIT(A) has erred in confirming the disallowance of various expenses amounting to Rs. 14,24,452 debited in profit and loss account, on adhoc/estimate basis.

4. The order of Ld CIT is against law, facts and circumstances of the case.

5. The appellant craves leave to add, alter, amend, modify or delete all or any of the Grounds of appeal on or before the date of hearing of appeal.”

2. Briefly stated, the assessee filed its return of income for the year under consideration on 29.11.2014 declaring *nil* income. The return was selected for scrutiny and statutory notices under the Income-tax Act, 1961 (hereinafter “the Act”) were duly issued and complied with. The assessment was completed under section 143(3) of the Act on 26.12.2016, wherein the Assessing Officer made various addition/disallowances , *inter-alia*, the following disallowances: (i) bad debt written off amounting to ₹6,17,138/-, and (ii) ad-hoc disallowance of various expenses aggregating to ₹14,24,482/-.

On appeal, the learned Commissioner of Income-tax (Appeals) granted partial relief but sustained the disallowance of the bad debt written off as well as the ad-hoc disallowance of expenses. Aggrieved, the assessee is in appeal before the Income-tax Appellate Tribunal by way of raising grounds as reproduced above:

3. Before us the ld. counsel for the assessee filed a paper book containing pages 1-116.



4. We have heard rival submission of the parties and perused the relevant material available on record.

4.1 Ground No. 1 of the appeal of the assessee being is general in nature and the same is dismissed as infructuous.

4.2 In ground No. 2 the assessee is aggrieved against the confirming of disallowances of Rs. 61,17,138/- on account of the bad debt written off. The assessee's claim pertains to an amount stated to be a security deposit allegedly paid in March 1994 to the Customs Department through M/s Balaji Shivram, Clearing Agents, Mumbai, for import of moulds, which was stated to have not been refunded. The assessee wrote off the said amount and claimed it as bad debt. The Assessing Officer disallowed the claim on the ground that the assessee failed to establish that the amount constituted a "debt" which had been taken into account in computing taxable income in any year, as mandated by section 36(1)(vii) read with section 36(2) of the Act.

4.3 Before Ld. CIT(A) the assessee argued that the under provision u/s 36(1)(vii) effective after 01.04.1989, it was sufficient to the write off of debt as unrecovered in the books of account following the decision of Hon'ble Supreme Court in TRF ltd. 937 SC. The learned Commissioner of Income-tax (Appeals), after calling for a remand report, concurred with the Assessing Officer, noting that the



assessee failed to produce any documentary evidence, such as acknowledgements or receipts from the Customs Department, establishing either the nature of the payment as a recoverable debt or its inclusion in taxable income in any year.

4.4 Before us ld. counsel for the assessee referred to the paper book pages 26 to 29. The paper book page 26 shows that the assessee has paid Rs. 37,705/- to Babaji Shivram Clearing Agents being consignment of 300 Aqua master. The paper book page 27 also reflected the same entry of Rs. 37,705 claiming to be amount paid to custom authorities. The paper book page 28 also reflected the similar entry of Rs. 5,79,433/- claiming to be amount of custom authorities and paper book page No. 29 show amount with custom authorities as written off .

4.5 Under the provisions of section 36(1)(vii) for claiming of bad debt written off as deduction, firstly, the amount of debt should have been taken as part of income either in the current year or in the earlier years. The ledger extracts in the paper book indicating payments purportedly made to clearing agents and Customs authorities by themselves, neither establish the payment as a security deposit with the Customs Department nor demonstrate that the amount represented a debt arising in the course of business which had been offered to tax in any earlier year.



4.6 The assessee has squarely failed to explain that actually the assessee had paid said amount as a security deposit with the custom authorities as no evidence in support thereof including any receipt issued by custom authorities has been filed. Further, unless said amount was taken into account for income of the current or earlier years, same cannot be allowed as deduction as bad debt written off u/s 36(1)(vii) of the Act.

4.7 Section 36(1)(vii) of the Act permits deduction of bad debts written off as irrecoverable in the accounts of the assessee for the previous year. However, section 36(2) expressly conditions such deduction on the requirement that the debt must have been taken into account in computing the income of the assessee of that previous year or of an earlier previous year, or must represent money lent in the ordinary course of business of money-lending.

4.8 The Hon'ble Supreme Court in *TRF Ltd. v. CIT* [(2010) 323 ITR 397 (SC)] clarified that post 01.04.1989, it is sufficient if the bad debt is written off as irrecoverable in the accounts; however, this principle operates subject to the fulfilment of the conditions of section 36(2). Thus, the requirement that the debt should have been taken into account in computing taxable income remains mandatory.

4.9 In the present case, the assessee has failed to establish that the alleged security deposit constituted a "debt" within the meaning



of section 36(1)(vii), or that it was ever considered as income in any year. In the absence of such foundational facts, the claim cannot be sustained as a bad debt. While, in a given case, a non-recoverable deposit may be eligible for consideration as a business loss under section 28, such a claim would also require proof that the expenditure or loss was incurred wholly and exclusively for the purposes of business proof which is conspicuously absent here.

4.10 Accordingly, we find no infirmity in the concurrent findings of the authorities below on this issue. The disallowance of ₹6,17,138/- is sustained.

4.11 The ground No. 2 of the appeal of the assessee is accordingly dismissed.

5. In ground No 3 the assessee is aggrieved with the confirming the disallowances of Rs. 14,24,452/- against various expenses. The Assessing Officer noticed an increase in certain heads of expenditure vis-à-vis the immediately preceding year and sought explanations. The assessee furnished explanations supported by bills and vouchers, attributing the increase to business requirements such as additional promotional material, engagement of office staff, increased vehicle usage for official purposes, and other operational needs. Despite this, the Assessing Officer made an ad-hoc disallowance on the premise that comprehensive documentation and third-party confirmations were not furnished.



5.1` The learned Commissioner of Income-tax (Appeals), while acknowledging the settled principle that ad-hoc disallowances are impermissible—as laid down by the Hon'ble Supreme Court in *CIT v. Walchand & Co. Pvt. Ltd.* [(1967) 65 ITR 381 (SC)]—nevertheless upheld the disallowance on the ground that the assessee had not fully substantiated the claims.

5.2 We are unable to concur with the approach of the learned Commissioner of Income-tax (Appeals) on this issue. The Assessing Officer has not pointed out any specific defect, discrepancy, or non-genuineness in the vouchers or bills produced by the assessee. The disallowance has been made purely on an estimated and ad-hoc basis. It is well settled that where books of account are not rejected and no specific instance of inflation or non-business expenditure is identified, ad-hoc disallowances cannot be sustained. Suspicion, however strong, cannot substitute proof.

5.3 In the absence of any concrete finding of defect or falsity in the supporting evidence, the impugned disallowance is unsustainable. We, therefore, set aside the findings of the learned Commissioner of Income-tax (Appeals) on this issue and direct deletion of the ad-hoc disallowance of ₹14,24,482/-.

5.4 The ground No. 3 of the appeal of the assessee is accordingly allowed.



6. The ground No. 4 and 5 are general in nature and therefore the same are not required be adjudicating upon and, therefore, dismissing as infructuous.

7. In the result, appeal of the assessee is partly allowed.

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

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 19/01/2026
Disha Raut, Stenographer

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai