

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD “SMC” BENCH : HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT

ITA.No.1464/Hyd/2025
Assessment Year 2017-2018

Konatham Kotireddy THORRUR – 506 163 Warangal PAN ATUPK6883E	vs.	The Income Tax Officer, Ward-1, WARANGAL.
(Appellant)		(Respondent)

For Assessee :	CA A Vamseedhar
For Revenue :	MS P Sumitha, Sr. AR

Date of Hearing :	15.01.2026
Date of Pronouncement :	21.01.2026

ORDER

This appeal has been filed by the Assessee against the Order dated 17.07.2025 of the learned Addl./JCIT(A)-12, Mumbai, for the assessment year 2017-2018.

2. The assessee has raised the following grounds:

1. *“That the order of the learned Commissioner of Income Tax (Appeals), Hyderabad-3 dated 17.07.2025, confirming the assessment framed under section 143(3) of the Act, is erroneous, contrary to law and facts of the case, and therefore unsustainable.*

2. *That the learned CIT(A) erred in confirming the addition of ₹7,97,500/- under section 69A of the Act, without appreciating that the said sum represented booking advances collected by the appellant in a fiduciary capacity as a sub-dealer of M/s. Anika Bajaj, and the same stood accounted for in the books of the principal dealer.*
3. *That the learned CIT(A) failed to consider that the appellant was merely an agent/sub-dealer, not the owner of the said monies, and therefore the very foundation for invoking section 69A was absent. Reliance is placed on the settled principle that agency collections do not partake the character of unexplained income in the hands of the agent.*
4. *That the learned CIT(A) gravely erred in upholding the estimation of income at 8% on gross bank deposits of ₹2,14,15,276/- (excluding demonetisation cash deposits), ignoring that: (i) the appellant's accounts were duly maintained and no defect therein was pointed out; (ii) no rejection of books u/s 145(3) was made; and (iii) no show-cause notice was issued in this regard before resorting to arbitrary estimation.*
5. *That the action of the Assessing Officer, as affirmed by the CIT(A), in treating gross bank credits as business receipts and estimating profit thereon, is per se unsustainable, particularly when the ITAT. Hyderabad Bench in ITA No.245/Hyd/2023 (in appellant's own case for penalty u/s 271B) has categorically held that the appellant was only a commission*

agent of M/s. Anika Bajaj, and the bank credits represented agency collections not forming part of his turnover.

- 6. That the learned CIT(A) failed to exercise jurisdiction under Rule 46A of the Income-tax Rules, 1962, to admit additional evidence demonstrating remittances to M/s. Anika Bajaj and the same are debited to the appellant's bank statements. The refusal to consider such evidence has resulted in gross miscarriage of justice.*
- 7. That the assessment and the appellate order stand vitiated as the Assessing Officer travelled beyond the scope of "limited scrutiny" (restricted to cash deposits), in contravention of CBDT Instruction No.5/2016 dated 14.07.2016, and proceeded to make additions de hors jurisdiction, rendering the assessment null and void ab initio.*
- 8. That the impugned order is violative of principles of natural justice, Inasmuch as (1) the appellant's detailed explanations and documentary evidence were not properly considered, (ii) no opportunity was given before estimating income, and (illi) the order is cryptic and non-speaking in material aspects.*
- 9. That the learned CIT(A) further erred in not allowing deduction under Chapter-VIA of Rs.1,56,665/- as claimed, without affording any opportunity to the appellant, thereby compounding the arbitrariness of the order.*
- 10. That, in view of the facts and circumstances of the case, the additions sustained under sections 69A and the estimation of*

profit on gross credits are arbitrary, excessive, and contrary to law, and deserve to be deleted in toto.

11. That the appellant craves leave to add, alter, modify, or withdraw any of the above grounds at the time of hearing in the interest of justice.”

3. The learned Authorised Representative of the Assessee has submitted that the assessee is an individual who is working as a commission agent for and on behalf of M/s. Anika Bajaj, Warangal Authorised Dealer for Bajaj Auto Limited. The assessee was appointed as an Authorised Service Dealer for Bajaj Auto Limited for providing after sale service, regular maintenance and repairs of Bajaj products particularly, two wheelers. The assessee is running a service centre under the name and style of M/s. Sushma Motors at Mahabubabad and M/s. Capital Marketing at Thorrur. Apart from the after-sale service, maintenance and repair services of Bajaj two wheelers, the assessee is also earning income in the shape of commission as an Agent of M/s. Anika Bajaj, Warangal. The learned Authorised Representative of the Assessee has submitted that the assessee has filed his return of income for the year under consideration on 19.12.2017

declaring total income of Rs.6,04,030/-. The case was selected for limited scrutiny examination of cash deposits during the year under consideration. However, the Assessing Officer has gone beyond the scope of limited scrutiny while completing the assessment on 30.12.2019 and made various additions on account of unexplained money u/sec.69A, estimated income on all bank credits @ 8% and disallowance of deductions under Chapter-VIA of the Income Tax Act [in short "the Act"], 1961. Thus, the learned Authorised Representative of the Assessee has submitted that the Assessing Officer has travelled beyond the scope of limited scrutiny while making the additions on account of estimated income on all the bank credits as well as disallowance of deduction under Chapter-VIA of the Act. He has submitted that the cash was deposited in the bank account from the booking amount received by the assessee from the purchasers/buyers of two wheelers which was remitted to the dealer and therefore, the said amount does not belong to the assessee and cannot be treated as income of the assessee u/sec.69A or as well as for estimation of income @ 8%. The

learned Authorised Representative of the Assessee has submitted that this amount is not a turnover of the assessee because this is the turnover of the dealer and assessee is earning only commission income which is offered to tax in the return of income. He has referred to the Order of this Tribunal in assessee's own case passed against the penalty levied u/sec.271B of the Act and submitted that the Tribunal has held that the assessee is carrying its agency business for and on behalf of M/s. Anika Bajaj, Warangal and assessee was working as a commission Agent for the Principal and therefore, the gross turnover for the period under consideration was only the income comprising of the commission income and other income of the assessee from services and maintenance as well as trading in the second-hand two wheelers which is less than Rs.1 crore. He has also referred to Form-26AS and submitted that all the amounts are subjected to TDS as reflected in the Form-26AS as TDS was deducted u/sec.194H of the Act by M/s. Anika Bajaj against the payment towards commission of the assessee. Thus, the learned Authorised Representative of the Assessee

has submitted that the Assessing Officer was not justified in taking the entire amount of cash deposit as turnover of the assessee as well as unexplained cash deposit in the bank account. He has referred to the statement showing month-wise commission income received by the assessee during the year placed at Pages-69 to 71 of the paper book and submitted that during the year under consideration, the assessee has received total commission of Rs.2,67,400/- against the bookings of two wheelers by two concerns of the assessee i.e., M/s. Sushma Motors, Mahabubabad and M/s. Capital Marketing at Thorrur of 412 and 349 two wheelers respectively. Thus, the learned Authorised Representative of the Assessee has submitted that the addition made by the Assessing Officer is not sustainable and liable to be deleted. He has referred to the statement showing the details of cash deposit and transfer of the same to the Authorised Dealer M/s. Anika Bajaj, Warangal placed at page nos.73 to 75 as well as the bank account statement placed at pages-76 to 86 of the paper book. The learned Authorised Representative of the Assessee has thus, submitted that the deposits in the

bank account on account of booking accepted by the Assessing Officer was remitted to M/s. Anika Bajaj, Warangal and therefore, the said amount cannot be considered either as turnover or the income of the assessee except the commission received by the assessee which is duly reflected in Form-26AS and offered to tax by the assessee. The learned Authorised Representative of the Assessee then referred to the certificates/confirmations given by M/s. Anika Bajaj, Warangal placed at pages 128 and 129 of the paper book. Thus, he has submitted that once the assessee has produced all the relevant details and evidence to show that the assessee is only a commission agent of M/s. Anika Bajaj, Warangal and earning commission income, therefore, the provisions of sec.44AD as applied by the Assessing Officer is not warranted. He has also referred to the details of the two wheelers booked through the assessee as an Agent as well as the invoices.

4. On the other hand, the learned DR has submitted that the assessee has failed give the supporting evidence and exact details of deposit of cash in the bank account on

account of alleged cash booking. She has further contended that the invoices filed by the assessee does not show the mode of payment though it is only a lumpsum amount shown as received but there is no bifurcation of the payment made by the buyer in cash or cheque. Therefore, the invoice produced by the assessee did not support the case of the assessee as the amount of cash deposit in the bank account is from the cash received on the booking of the two wheelers on behalf of the Authorised Dealer M/s. Anika Bajaj, Warangal. The learned DR has relied upon the Orders of the authorities below and submitted that when the limited scrutiny was taken up on the issue of cash deposit in the bank account, then the estimation of the income on the said deposit is part and parcel of the same issue and not exceeding the scope of limited scrutiny.

5. I have considered the rival submissions as well as the relevant material on record. The Assessing Officer has stated in the assessment order that the return of income of the assessee was taken up for the limited scrutiny for examining the cash deposit of Rs.7,97,500/- during the

demonetization period. The Assessing Officer while passing the assessment order has made the addition of the said amount of Rs.7,97,500/- u/sec.69A of the Act and also made the addition on account of estimation of income @ 8% on the total credits in the bank account of the assessee. It is pertinent to note that the Assessing Officer has not disputed the nature of the business of the assessee as a commission agent of Authorised Dealer of Bajaj two wheelers as well as an Authorized Service Dealer for Bajaj products particularly, two wheelers providing after sale services, regular maintenance and servicing and repairs. As regards the source explained by the assessee that cash deposited in the bank account represents the booking advance collected by the Assessee on behalf of the Principal Dealer M/s. Anika Bajaj, Warangal, this fact is evident from the bank account statement of the assessee that all these cash deposits entries are also having corresponding remittance entries of the amount to M/s. Anika Bajaj, Warangal. Therefore, from the bank account statement itself it is established that the deposits made by the assessee were remitted to M/s. Anika

Bajaj, Warangal and hence, the explanation of the assessee cannot be rejected without bringing any contrary facts on record. The assessee has produced Form-26AS which also reflects the TDS details u/sec.194H of the Act deducted by M/s. Anika Bajaj, Warangal and therefore, the details of Form-26AS regarding the TDS deducted u/sec.194H corroborates the claim of the assessee as reflected from the bank account statement that the assessee is receiving only the commission income from M/s. Anika Bajaj, Warangal. Further, the assessee has also given the entire details and total commission income received during the year which is also matching with Form-26AS. Thus, the income of the assessee from commission income on account of sales of the products of the Bajaj two wheelers on behalf of the Authorised Dealer M/s. Anika Bajaj, Warangal cannot be disputed. The assessee also produced confirmation given by M/s. Anika Bajaj, Warangal placed at pages-128 and 129 of the paper book as under:

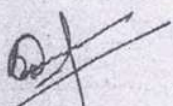
Anika BAJAJ
Inspiring Confidence
Authorized Dealers for BAJAJ VEHICLES

Date: 01.04.2016

TO WHOM SOEVER IT MAY CONCERN

This is to certify that **M/s. Capital Marketing**, H.No. 16-80/2, Main Road, Thorrur, Warangal District, Telangana. Represented by **Mr. Konatham Koti Reddy S/o Jagga Reddy** is Authorized Service Dealer under the main Dealer **M/s. Anika Bajaj** Mulugu Road, Warangal. During the period 2016-2017 financial year. The Sales also been started with us on commission basis. The premises being used by us for display of Vehicles. The Models available with us being sold. **CT 100, PLATINA 100, PULSAR 150, PULSAR 180, PULSAR 220**. The Invoice authority is being main Dealer. **M/s. Anika Bajaj** our sub dealers working on Commission & Incentive.

For ANIKA BAJAJ


S. GRIDHAR
AUTHORISED SIGNATORY



Anika BAJAJ
Inspiring Confidence
Authorised Dealers for BAJAJ VEHICLES

Date: 01.04.2016

TO WHOM SOEVER IT MAY CONCERN

This is to certify that **M/s. Sushma Motors**, H.No. 1-4-107, Ellandu Road, Mohabubabad, Warangal District, Telangana. Represented by **Mr. Konatham Koti Reddy S/o Jagga Reddy** is **Authorized Service Dealer** under the main Dealer **M/s. Anika Bajaj** Mulugu Road, Warangal. During the period 2016-2017 financial year. The Sales also been started with us on commission basis. The premises being used by us for display of Vehicles. The Models available with us being sold. **CT 100, PLATINA 100, PULSAR 150, PULSAR 180, PULSAR 220**. The Invoice authority is being main Dealer. **M/s. Anika Bajaj** our sub dealers working on Commission & Incentive.

For ANIKA BAJAJ


S. GIRIDHAR
AUTHORISED SIGNATORY



5.1. Therefore, the evidence produced by the assessee goes to prove that the assessee was working as a commission agent of M/s. Anika Bajaj, Warangal and was receiving the commission income. In the appeal against the penalty levied u/sec.271B of the Act this Tribunal in assessee's own case has held vide Order dated 07.06.2023 in ITA.No.245/Hyd./2023 in Para-8 as under:

"8. We have heard the rival arguments made by both the sides and perused available material on record. The Assessing Officer in the assessment order had reproduced the reply of the assessee at page 2 of its order. The Assessing Officer has merely reiterated the provisions of section 271B of the Act and had mentioned that the total sales/turnover/gross receipts of the assessee during the period under consideration was worked out to Rs.2,22,12,776/- and therefore, the Assessing Officer had imposed penalty for Rs.1,11,065/-. The learned CIT (A), despite the reliance by the assessee, on the Board's Circular and the assessee's contention that the assessee was merely working as a commission agent for M/s. Anika Bajaj and have made bookings for the principal outlet, had rejected the contention of the assessee that the assessee was merely working under the directions of the principal M/s. Anika Bajaj for booking of the scooters and for those services, the assessee was receiving the commission. The learned CIT (A)

after reiterating the submission of the assessee had rejected the claim of the assessee on the pretext that the assessee was not able to submit any documentary evidence in support of its claim. In our view it is for the Assessing Officer or the learned CIT (A) to make adequate inquiries from the Principal Outlet M/s. Anika Bajaj to find out whether the assessee was working as an agent for it or not. Once the assessee had categorically stated that the assessee was working for the main outlet on commission, then the consideration received for sale cannot be considered as turnover of the assessee or receipt of the assessment. As a matter of fact, the assessee has filed supporting document like form 26AS (which shows assessee was regularly receiving commission payment from the Principal Outlet at page 8 of the Paper Book) and Letter of appointment issued by M/s. Anika Bajaj vide letter dated 1.4.2016 appointing assessee as commission agent (at page 68 of the Paper book clearly shows that the assessee was carrying its agency business for and on behalf of M/s. Anika Bajaj). In the light of the above said evidence we have no doubt that the assessee was working as a commission agent for the principal outlet M/s. Anika Bajaj. Since the gross turnover for the period under consideration was less than Rs.1.00 crore, hence the accounts are not required to be audited as per section 44AB of the Act. Hence penalty imposed by the lower authorities was without any basis. Accordingly, we have no other option, but to delete the same. In the light of the above the grounds raised by the assessee is allowed.”

5.2. Thus, the Tribunal has held that the booking amount received by the assessee as an Agent of M/s. Anika Bajaj, Warangal cannot be treated as turnover of the assessee. Accordingly, in the facts and circumstances of the case as well as the material brought on record, it is found that the assessee has established the source of cash deposit in the bank account being part of the turnover of M/s. Anika Bajaj as the booking advance received by the assessee and remitted the same to M/s. Anika Bajaj and therefore, the same cannot be assessed to tax in the hand of the assessee. Accordingly, the addition made by the Assessing Officer of Rs.7,97,500/- is not sustainable and the same is deleted.

6. As regards the other additions made by the Assessing Officer, the learned CIT(A) in Paras-6 and 7 has held as under:

“6. In relation to addition of Rs.17,30,220/- appellant has made twin submission. Firstly, its total credit in bank account included cash deposits, bank transfer, commission income, interest income, POS reversals, gas subsidy, etc. and the commission income has been offered in the return filed and same is reflecting in 26AS also. Secondly, The AO has gone beyond the scope of limited scrutiny by making addition @ of

8% when case was selected for limited scrutiny for examination of cash deposit only. The appellant relied on CBDT instruction No.5 of 2016 dated 14.07.2016. This instruction provides for the procedure for converting limited scrutiny case into complete scrutiny case with the approval of PCIT. Therefore, the validity of grounds taken by appellant that the AO has gone beyond the scope of limited scrutiny can be known from the assessment records i.e. whether case was converted into complete scrutiny or not before making the estimated addition of Rs.17,30,220/-Hence, the AO is directed to delete the addition of Rs.17,30,220/- if approval of PCIT is not taken for converting the case from limited scrutiny into complete scrutiny case. If approval had been taken, then AO is directed to verify the breakup given by the appellant of all his credit in the bank account and addition be restricted to those Income entries not offered to tax. The appellant is also requested to provide all the supporting documents to the AO for verification. Thus, additional grounds 4, 6 and 7 are decided as per the directions given above.

7. In the additional ground 5 the appellant has challenged the disallowance of deduction claimed under chapter VIA of Rs.1,56,665/-. Again, AO is directed to delete the addition of Rs.1,56,665/- if approval of PCIT is not taken for converting the case from limited scrutiny into complete scrutiny case. If approval had been taken, then AO is directed to verify the details of deduction claimed and also supporting documents and addition be restricted to amount for which appellant fails to submit the details and supporting

documents. The appellant is also requested to provide all the details and supporting documents to the AO for verification. Thus, additional ground 5 is decided as per the directions given above.”

7. So far as the income assessed by the Assessing Officer @ 8% on the total credit is concerned, in view our finding on the first issue the provisions of sec.44AD of the Act cannot be applied to the extent of commission income. Further, the learned CIT(A) has also considered that the Assessing Officer has gone beyond the scope of limited scrutiny by making addition @ 8% by estimating the income @ 8% and further disallowance of deduction u/sec.80C of the Act.

8. The learned DR has fairly submitted that as per the record the limited scrutiny was not converted into complete scrutiny. However, she has relied upon the order of the Assessing Officer.

9. I have considered the rival submissions as well as the relevant material on record. Undisputedly, it is a case of limited scrutiny and there was no Order of converting the

limited scrutiny to the complete scrutiny, therefore, the other additions made by the Assessing Officer are beyond the scope of limited scrutiny and hence, not sustainable. Hence, the additions made by the Assessing Officer on account of estimation of income @ 8% and disallowance of deduction u/sec.80C are deleted.

10. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 21.01.2026.

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 21st January, 2026

VBP

Copy to

1.	Konatham Kotireddy, 3-110, Beerapa Nagar, THORRUR – 506 163. Warangal Dist.Telangana.
2.	The Income Tax Officer, Ward-1, BSNL Complex, Rangampet, Beside KMC, WARANGAL – 506 007. Telangana
3.	The Pr. CIT, Hyderabad.
4.	The DR ITAT “SMC” Bench, Hyderabad
5.	Guard File

//By Order//

//True Copy//