

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

**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.5575/MUM/2025  
(Assessment Year:2017-2018)**

**Dhaval Dinesh Shah**

Shop No.12, Subhalaxmi Shopping Centre,  
Vasant Nagri, Vasai, Thane - 401209. Maharashtra  
[PAN: AXBPS2493P]

..... **Appellant**  
Vs

**Income Tax Officer Ward 42(1)(2),  
Mumbai**

Room No.706, Kautilya Bhavan, G-Block,  
BKC, Bandra (East) Mumbai - 400051.  
Maharashtra.

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Asif Karmali  
For the Respondent/Department : Shri Annavarani Kosuri

**Date**

Conclusion of hearing : 27.01.2026  
Pronouncement of order : 30.01.2026

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal preferred by the Assessee is directed against the order, dated 09/07/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 17/12/2019, passed under Section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2017-2018.
2. The Assessee has raised following grounds of appeal :
  - "1. The Id. CIT(A) erred in law and on fact in confirming the additions made by the AO treating 50% of the cash deposit 69,68,066/- as unexplained money earned from undisclosed sources as per provision of section 69A of the Income Tax 1961 during the

*demonetisation period (Total cash deposit of Rs.1,39,32,135/-) ignoring the fact that the assessee was a distributor of AIRTEL and was permitted to accept SCNs during the demonetization period.*

2. *The Id. CIT(A) erred in law and on facts in inferring that cash was not collected from authorized source in a matter consistent with demonetisation guidelines ignoring the fact that the assessee was a distributor of AIRTEL and complete details of sales backed by books of accounts and bank statements indicating that payments from the impugned bank account with PMC were made only to AIRTEL.*
  3. *The Id. CIT(A) erred in law and on facts in inferring that cash was not collected from authorised source ignoring the fact that the assessee was a distributor of AIRTEL and the same modus operandi has been followed by him not only in the earlier years but also in the period prior to the demonetisation.*
  4. *The Id. CIT(A) erred in law and on facts in confirming the additions made by the AO in calculating net profit of 25% on adhoc basis (Total Commission received from Airtel mobile services Rs.36,57,300/- and 25% net profit of Rs.9,14,325/-).*
  5. *The Id. CIT(A) erred in law and on facts in confirming the actions of the AO in levying of interest sub section of 234A, 234B and 234C.*
  6. *The Id. CIT(A) erred in law and on fact in confirming the actions of the AO in initiating penalty u/s.270A & 271AAC ignoring the fact that the source of cash deposited in the bank stood explained.”*
3. The relevant facts in brief are that the Assessee, is an individual filed return of income for the Assessment Year 2017-2018 on 31/01/2018 declaring total income of INR.3,14,760/-.
4. The case of the Assessee was selected for scrutiny and notice under Section 143(2) of the Act was issued to the Assessee. In response the Assessee filed details through e-filing portal. The Assessing Officer noted that the Assessee had deposited cash of INR.1,39,32,135/- in the bank account maintained by the Assessee with Punjab & Maharashtra Co-Op Bank Ltd. (for short '**PMC Bank**'). The Assessee was asked to furnish detailed of source of cash deposits made during the demonetization period demonetization period (09/11/2016 to 31/12/2016) in his bank account in SBN currency and a show cause

notice dated 03/12/2019 was issued to the Assessee. In response the Assessee filed reply dated 16/12/2019, wherein it was explained that:

- (a) The Assessee was acting as commission agent for Airtel. The cash of INR.1,38,69,835/- deposited during demonetization period is collection of cash for money transfer and mobile recharge.
- (b) The Assessee collected the amount on behalf of Airtel and paid to Airtel so all the amount received/paid did not form part of turnover of the Assessee. The Assessee also furnished the details of collection done on behalf of Airtel and payments made to Airtel
- (c) The business carried on by the Assessee fell into the category of 23 business specified in Notification, dated 24/11/2016 [SO 3544(E)] issued by the Department of Economic Affairs]. Therefore, the Assessee was allowed to accept Specified Bank Notes (SBN) during demonetization period. Copy of notification was also furnished by the Assessee.
- (d) The Assessee had filed original return of income on 31/01/2018. Since the said return was defective, the Assessee filed Rectified Return on 09/08/2018 declaring income of INR.5,15,144/- [*in respect of gross commission of INR.36,57,300/- disclosed by the Assessee in the Income & Expenditure Statement*] as against Commission Income of INR.3,40,500/- [*offered to tax as Commission Income on presumptive basis under Section 44AD at the rate of 8% of commission income of INR.36,31,450/-*].

4.1. The above submissions made by the Assessee did not file any favour with the Assessing Officer. The Assessing Officer determined income of

the Assessee at INR.9,14,325/- computed at the rate of @25% of the gross commission of INR.36,57,300/- disclosed by the Assessee in the Income & Expenditure Statement forming the basis of the rectified return filed by the Assessee. Thus, the Assessing Officer made addition of INR.3,99,181/- [INR.9,14,325/- minus INR.5,15,144/-] in the hands of the Assessee.

4.2. Further, the Assessing Officer noted that the Assessee had deposited INR.1,39,32,135/- cash during the demonetization period. According to the Assessing Officer the Assessee was distributor and had sold vouchers to retailers in cash. Since the Assessee had no direct connection with the consumer to purchaser the vouchers, the in Notification, dated 24/11/2016 [SO 3544(E)] issued by the Department of Economic Affairs] did not apply to the Assessee and therefore, the Assessee was not permitted to receive SBNs. The Assessing Officer Thus, the Assessing Officer concluded that the Assessee had failed to discharge the onus to explain the nature and source of cash deposits made in the bank account during the demonetization period and therefore, the Assessing Officer made addition INR.69,66,068/- in the hands of the Assessee computed at the rate of 50% of the aggregate cash deposit of INR.1,39,32,135/- made by the Assessee in PMC Bank during the demonetization period. Thus, vide Assessment Order, dated 17/12/2019, passed under Section 143(3) of the Act. The Assessing Officer assessed the income of the Assessee at INR.76,70,010/-.

5. Being aggrieved, the Assessee preferred appeal before the Learned Commission of Income Tax (Appeals) - 44, Mumbai. Later, the appeal got to be transferred to Learned CIT(A). The Learned CIT(A) confirmed the order of the Assessing Officer whereby the income of the Assessee was estimated at INR.9,14,325/- [25% of INR.36,57,300/-] observing that in absence of verifiable data and proper books of accounts maintained by the Assessee, the estimation of income done by the

Assessing Officer falls within the permissible limits of best judgment assessment in terms of Section 144 of the Act. As regards addition made under Section 69A of the Act, the Learned CIT(A) confirmed the addition made by the Assessing Officer holding that the Assessee had failed to discharge the onus to show that cash was collected from authorized sources. In absence of proper books of accounts maintained by the Assessee, the Assessing Officer was justified in making addition of 50% of cash deposit. Thus, vide Order, dated 09/07/2025, the Learned CIT(A) dismissed the appeal preferred by the Assessee.

6. Being aggrieved, the Assessee has now preferred the present appeal before the Tribunal on the grounds reproduced in paragraph 2 above.

**Ground No.1 to 3**

7. Ground No.1 to 3 raised by the Assessee pertained to addition of INR.69,68,066/- made under Section 69A of the Act. We have heard both the sides on this issue and have perused the material on record.

- 7.1. The Assessee had placed below the following details/documents:

- (a) Copy of Bharti Airtel Agreement alongwith invoices raised during the relevant previous year and delivery challan cum gate pass
- (b) Copy of Bharti Airtel Ledger for the relevant previous year
- (c) Copy of Agreement with Airtel Payments Bank Limited
- (d) Bank Statement of account maintained with PMC Bank
- (e) Details of receipts and payments during the relevant previous year
- (f) Original Income Tax Return for the Assessment Year 2017-2018
- (g) Revised computation of income alongwith Income and Expenditure Statement for the Assessment Year 2017-2018

8. The above support the contention of the Assessee that the Assessee was working as a distributor of pre-paid vouchers of Bharti Airtel Ltd. and was also working as business correspondent for Airtel Payment Bank Limited [for short '**Airtel**']. During the assessment proceedings the Assessee had furnished month-wise details of cash collected and paid to Airtel.

<b>SHREE AGENCY 2016-2017</b>				
MONTH	AMOUNT PAID TO VENDORS		COLLECTION	
			CASH RECEIPT	CHEQUE/CREDIT
April	1,01,73,376.78		1,06,13,736.00	2,96,875.78
May	1,07,39,859.08		1,08,08,838.00	3,13,082.04
June	1,04,94,991.40		1,06,47,395.00	5,14,306.99
July	1,10,27,455.89		1,05,24,811.00	3,73,898.99
August	1,18,73,533.70		1,15,29,711.26	4,30,719.50
September	1,11,60,233.57		1,07,53,205.00	4,19,960.57
October	1,03,40,599.55		1,08,35,713.00	5,14,033.55
November Upto 8 <sup>th</sup>	29,21,929.00		24,46,926.00	67,801
November 9 <sup>th</sup> to 30	70,42,285.62		67,36,923.00	8,92,384.12
November	86,78,335.34		84,09,326.00	7,16,165.34
December	78,63,248.08		73,45,042.00	5,92,456.07
January	73,85,627.01		70,70,025.00	3,26,449
February	85,79,016.84		85,09,927.91	3,31,744.74
March	85,79,016.84		85,09,927.91	3,31,744.74
<b>Total</b>	<b>11,82,80,491.86</b>		<b>11,62,31,579.17</b>	<b>57,89,877.69</b>

9. The above details showed that the Assessee was consistently collecting cash, making cash deposits and thereafter, making payments to Airtel through Bank Account maintained with PMC. The Assessing Officer did not make any additions in respect of cash deposited during the relevant previous year except for the period falling within demonetization period. Thus, the Assessing Officer, in effect, accepted the contention of the Assessee that the source of cash deposits made in the bank account of the Assessee during the balance period was cash received on sale of pre-paid vouchers and/or the cash collected on behalf of Airtel from customers/subscribers. Perusal of bank account statement shows that during each month consolidated amount was paid through bank account maintained by the Assessee with PMC Bank to Airtel. In

support the Assessee had also filed copy of ledger account maintained by Airtel. The aforesaid ledger account support the stand taken by the Assessee that the cash collected from airtel customers/subscribers was deposit of cash in bank account with PMC and thereafter, transfers were made through banking channel to Airtel as per the contractual arrangement between the Assessee and Airtel. In our view, the Assessee had discharged the primary onus cast upon the Assessee to establish the source of cash deposits made in the bank account maintained by the Assessee with PMC. The Assessee has placed on record order, dated 19/09/2025, passed by Additional/Joint Commissioner of Income Tax (Appeals) – 2, Bangalore in the case of Dwijal Dinesh Kumar Shah for the Assessment Year 2017-2018 where in identical facts and circumstances addition made under Section 69A of the Act in respect of cash deposits made in the bank account of the assessee in that case during demonetization period while acting under similar contractual relationship with Airtel Limited were deleted. We note that in the present case no inquiry/verification was done by the Assessing Officer before rejecting the documents/details furnished by the Assessee. Further, as we have noted hereinabove, the Assessing Officer had not made any addition in respect of cash deposits made during the relevant previous year other than the demonetization period. On perusal of show-cause notice, dated 03/12/2019, reproduced in Paragraph 3 of the Assessment Order it is not clear that the cash deposit of INR.1,39,32,135/- was made by the Assessee in specified bank notes. The Assessing Officer had restricted the addition to only 50% of the aggregate cash deposits made by the Assessee and has provided no reasoning or explanation for the same. Given the aforesaid, we are of the view that the ad-hoc addition of INR.69,66,068/- [50% of INR.1,39,32,135/-] made by the Assessing Officer under Section 69A of the Act cannot be sustained in the facts and circumstances of the present case. The Assessing Officer is directed to delete the aforesaid addition of INR.69,66,068/- after

verifying from the Ledger Account Statement and the Bank Statement of PMC Bank furnished by the Assessee that the cash deposited during the demonetization period in the PMC Bank account of the Assessee was paid to Airtel. The Assessee is directed to provide to the Assessing Officer a Reconciliation Statement along with a copy of the aforesaid Ledger Account and Bank Statement. In terms of aforesaid Ground No. 1 to 3 raised by the Assessee are allowed.

**Ground No. 4**

10. As regards addition of INR.3,99,181/- made by the Assessing Officer by estimating the taxable income of the Assessee at the rate of 25% of the commission receipts is concerned, we find merit in the contentions advanced on behalf of the Assessee that the addition made by the Assessing Officer by estimating income of the Assessee on adhoc basis cannot be sustained. During the assessment proceedings the Assessee had filed revised computation of income alongwith Income & Expenditure Statement wherein 'Commission Received' was stated to INR.36,57,300/-. The Assessee had also provided details of expenses incurred during the relevant previous year and had disclosed net profit of INR.5,15,144/-. While the Assessing Officer accepted the figure of 'Commission Received', the expenditure stated therein were rejected on the ground that Assessee had failed to furnish any documentary evidence in support of expenses incurred. We note that the Assessee had claimed before Learned CIT(A) that the estimation of income @ 25% by the Assessing Officer was without any basis. However, the Learned CIT(A) rejected the aforesaid contention observing that the Assessing Officer was empower to make best judgment under Section 144 of the Act and the estimation made by the Assessing Officer fail within permissible limit of best judgment assessment as verifiable data was lacking. On perusal of Assessment Order we find that Assessing Officer had framed assessment under Section 143(3) of the Act and the Assessing Officer had provided no basis or reasoning for estimating income of the Assessee @25% of commission receipts. At the same

time we note that the Learned CIT(A) had recorded that the Assessee's claim of profit margin being 3-4% was without any basis. Accordingly, in the facts and circumstances of the present case we deem it appropriate to restore this issue back to the file of Assessing Officer with the directions to adjudicate the issue afresh after granting Assessee reasonable opportunity of being heard. The Assessee is directed to place before the Assessing Officer documents in support of expenditure debited to the Income & Expenditure Statement and/or material to justify profit margin of 3-4% as contended before the Learned CIT(A). Accordingly, Ground No.4 raised by the Assessee are allowed for statistical purposes.

**Ground No.5**

11. Ground No.5 raised by the Assessee pertains to levying of interest under Section 234A, 234B and 234C of the Act and the same is disposed off as being consequential in nature.

**Ground No.6**

12. Ground No.6 raised by the Assessee pertains to initiation of penalty proceedings under Section 270A and 271AAC of the Act and the same is dismissed as being premature in nature.
13. In terms of above, the present appeal preferred by the Assessee is partly allowed.

Order pronounced on 30.01.2026.

*Sd/-*  
**(Vikram Singh Yadav)**  
**Accountant Member**

*Sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated :30.01.2026  
*Milan, LDC*

**आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai