

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, JM
AND
MS. KAVITHA RAJAGOPAL, AM**

ITA No.6775/Mum/2025
(Assessment Year: 2021-22)

Mr. Niket Sohanlal Jain, Room No.35, Ahmed Sailor Building No.5, Sadanad Jadhav Marg, Opp. Dakre Guruji Garden, Naigaon, Mumbai – 400 014	Vs.	Officer-in-charge (NFAC), Delhi Current Jurisdiction: Income Tax Officer, Ward 20(2)(1), Mumbai – 400012
PAN: BADPJ0703R		
(Appellant)	:	(Respondent)

Assessee by	:	Mr. Dalzin Madan, C.A. & Mr. Dhruvang Diwan, A.R (Virtually appeared)
Respondent by	:	Shri S. Srinivasu, CIT DR

Date of Hearing	:	24.12.2025
Date of Pronouncement	:	30.01.2026

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the Learned Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’ for short], National Faceless Appeal Centre (‘NFAC’ for short) passed u/s. 250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2021-22.

2. The assessee has raised the following grounds of appeal:

“1. On the facts and circumstances of the case as well as the law on subject, the learned CIT(A) has erred in not considering the additional evidence, provided for the first time

during the appellate proceedings. The learned CIT(A) ought to have admitted the additional evidence under rule 46A.

2 On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of the learned Assessing Officer in making additions amounting to Rs. 12,43,66,969/- on account of alleged unexplained cash credit being sundry creditors u/s. 68 of the I.T. Act, 1961.

3. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of learned Assessing Officer in making the disallowance of expenses amounting Rs. 9,65,684/- (being 10% of contractual payments of Rs. 96,56,837/-) u/s. 37 of the I.T. Act, 1961. The learned CIT(A) has erroneously upheld the disallowance u/s. 37, despite the fact that the learned Assessing Officer had originally invoked the deeming provisions of Section 69C of the Act for making the addition.

4. Without prejudice, on the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in taxing the addition by taking the rate @ 77.25% by attracting S. 115BBE instead of taxing as per normal tax slab.

5. It is therefore prayed that the above addition made by the learned Assessing Officer and confirmed by learned CIT(A) may please be deleted or the matter may please be set-aside.

6. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."

3. Brief facts of the case are that the assessee is an individual engaged in the business of manufacturing and wholesale and retail trade. The assessee has filed his return of income dated 24.01.2022 declaring total income at Rs.44,56,830/-. The assessee's case was selected for complete scrutiny under CASS and notice u/s. 143(2) & 142(4) of the Act were duly issued and served upon the assessee. During the assessment proceedings the Learned Assessing Officer ("Ld. AO" for short) sought for the details pertaining to the identity, genuineness and creditworthiness of sundry creditors outstanding from various parties aggregating to Rs.12,43,66,969/-. After duly considering the assessee's submission the Ld. AO passed the assessment order dated 28.12.2022 determining the total income at Rs.12,97,89,483/- after making additions of Rs.12,43,66,969/- and Rs.9,65,684/- with

regard to the variation in respect of sundry creditors and contractual payments on the ground that the assessee has failed to substantiate his claim with sufficient documentary evidences.

4. Aggrieved, the assessee was in appeal before the first appellate authority, who vide order dated 04.08.2025 upheld the addition made by the Ld. AO on the same ground that in spite of several opportunities the assessee failed to furnish the relevant documentary evidences such as confirmation from parties and other documentary evidences to prove the identity and genuineness of the parties.

5. Aggrieved, the assessee is in appeal before us, challenging the order of the Ld. CIT(A) on the abovementioned grounds.

6. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has been non compliant both during the assessment proceedings as well as the first appellate proceedings and has failed to furnish corroborative evidences to establish the identity, creditworthiness of the parties and genuineness of the transaction as required by the provisions of law. Before us, the Learned Authorized Representative (“Ld. A.R.” for short) for the assessee prayed that one more opportunity be given to the assessee to prove his case before the Ld. AO, though the same was vehemently objected by the Learned Departmental Representative (“Ld. D.R.” for short).

7. On the above factual matrix of the above case, we deem it fit to extend the assessee with one more opportunity to present his case before the Ld. AO by adhering to the



principles of natural justice and in the interest of justice dispensation. We, therefore, direct the assessee to strictly comply with the proceedings before the Ld. AO and the Ld. AO is also directed to adjudicate the issue denovo based on the submission and documentary evidences proposed to be filed by the assessee and decide the issue on the merits and in accordance with law.

8. In the result, the appeal filed by the assessee is hereby allowed for statistical purposes.

Order pronounced in the open court on 30.01.2026

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

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

Mumbai; Dated: 30.01.2026

* Kishore, Sr. P.S.

Copy of the Order forwarded to:

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai