

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 7634/MUM/2025
(Assessment Year : 2011-12)**

ITO 20(1)(1), Mumbai 303. 3 rd Floor, Piramal Chamber, Parel, Mumbai-400012	Vs.	Ahmed Ali Riyaz Ahmed Choudhary 34 Gate No 4, R.A.K. Road, Near Alishan Hotel, Wadala West, Mumbai- 400031
PAN/GIR No. AGZPC8428P		
(Appellant)	..	(Respondent)

Assessee by	Shri Vimal Punmiya
Revenue by	Shri Surendra Mohan, Sr. DR
Date of Hearing	29/01/2026
Date of Pronouncement	30/01/2026

आदेश / O R D E R

PER AMIT SHUKLA :

The present appeal has been preferred by the Revenue against the order dated 18.09.2025 passed by the National Faceless Appeal Centre, Delhi, arising out of the reassessment framed under section 143(3) read with section 147 of the Income-tax Act, 1961 for Assessment Year 2011-12.

2. The solitary grievance of the Revenue, as emanating from the grounds of appeal, is directed against the action of the learned Commissioner (Appeals) in estimating the profit at 12% on the total cash deposits amounting to Rs.1,01,29,887/-, instead of sustaining the addition as made by the Assessing Officer. It is an admitted position on record that the resultant tax effect works out to Rs.27,52,000/-, which is below the monetary threshold prescribed for filing appeals before the Tribunal.

3. However, in the authorization memo accompanying the appeal, the Revenue has sought to justify the filing of the present appeal on the ground that, notwithstanding the low tax effect, the case allegedly falls within the exception carved out under paragraph 3.1(h) of CBDT Circular No. 5/2024 dated 15.03.2024, as amended by Circular No. 9/2024 dated 17.09.2024, whereby the monetary limit for filing appeals before the Tribunal has been enhanced to Rs.60,00,000/-.

4. At this stage, it would be apposite to briefly notice the statutory and administrative framework governing the issue. As per CBDT Circular No. 5/2024, appeals below the prescribed monetary limits are not to be filed, except in cases specifically falling under the enumerated exceptions. Paragraph 3.1(h) of the said Circular provides an exception in respect of:

“Cases involving organized tax evasion including cases of bogus capital gain/loss through penny stocks and cases of accommodation entries.”

5. The Revenue has invoked the aforesaid clause to contend that the appeal deserves to be entertained on merits, irrespective of the low tax effect. We have carefully perused the impugned appellate order as well as the assessment records placed before us. On a plain and objective reading of the material on record, we find no factual foundation whatsoever to even remotely suggest that the present case involves organized tax evasion, bogus capital gains or losses through penny stocks, or accommodation entries, which are the sine qua non for invoking the exception under paragraph 3.1(h).

6. On the contrary, the case before us is a routine CASS-selected matter, wherein the issue revolves around cash deposits in the bank account, which have been duly reflected in the assessee's cash ledger. The learned Commissioner (Appeals), after examining the factual matrix, has merely estimated the profit element at 12%, a course of action which is well-recognized in law in cases where complete quantitative reconciliation may not be forthcoming. At no point, either in the assessment order or in the appellate proceedings, has the Revenue alleged or established the existence of any organized mechanism of tax evasion, much less one involving the specific mischief contemplated by clause 3.1(h) of the Circular.

7. The invocation of the said exception by the Revenue, in the absence of any supporting factual substratum, is therefore wholly misconceived and unsustainable. The Circular clearly postulates that the exception is not to be applied mechanically or by mere incantation of its language, but only where the facts demonstrably

bring the case within its ambit. A routine estimation of income arising out of cash sales, without any allegation of accommodation entries or structured evasion, cannot, by any stretch of reasoning, be elevated to the status of organized tax evasion.

8. In view of the above discussion, we hold that the present appeal does not fall within any of the exceptions enumerated in CBDT Circular No. 5/2024. Consequently, the bar of low tax effect squarely applies, and the appeal filed by the Revenue is not maintainable.

9. Accordingly, the appeal of the Revenue is dismissed in limine on account of low tax effect, without entering into the merits of the additions made.

10. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 30th January, 2026.

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai; Dated 30/01/2026
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai