

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.628/Ind/2025
Assessment Year: 2012-13

Lokendra Mali, Goverdhan Gali, Mewada Mali Seri, bamagar, Ujjain	<u>बनाम/</u> Vs.	ITO 2(1) Ujjain
(Appellant / Assessee)		(Respondent / Revenue)
PAN: BDPPM3380Q		
Assessee by	Shri S.S. Deshpande, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	19.01.2026	
Date of Pronouncement	03.02.2026	

आदेश / ORDER

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 22.05.2025 passed by learned Commissioner of Income-Tax (Appeals)-National Faceless Appeal Centre, Delhi ["CIT(A)"], which in turn arises out of assessment-order dated 19.12.2019 passed by learned ITO, 2(1), Ujjain ["AO"] u/s 144/147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal on various grounds mentioned in Appeal-Memo (Form No. 36).

2. The background facts leading to present appeal are such that the assessee-individual did not file any return of income of AY 2012-13. The AO, on the basis of information available in AIR database of Income-tax Department revealing the total deposits of Rs. 10,27,541/- made in assessee's bank a/c with S.B.I. during the previous year 2011-12 relevant to AY 2012-13 under consideration, issued notice dated 27.03.2019 u/s 148. The AO also issued notices u/s 142(1). However, the assessee did not make any response to those notices. Ultimately, the AO passed ex-parte assessment-order assessing a total income of Rs. 10,28,064/- consisting of (i) unexplained deposits in bank a/c – Rs. 10,27,541/- and (ii) bank interest income of Rs. 523/-. Aggrieved, the assessee carried matter in first-appeal but did not get any relief. Now, the assessee has come in next appeal before us.

3. Presently, the assessee is aggrieved by the addition of Rs. 10,27,541/- made by AO and upheld by CIT(A) on account of unexplained deposits in bank a/c.

4. Before us, Ld. AR for assessee made following submissions:

- (i) That, the assessee is a semi-educated person and engaged in a very small business of petty electrical contractor.
- (ii) That, the assessee's total income never crossed the exemption limit and as such the assessee was not required to file any return of income.

Therefore, for the year under consideration also, the assessee did not file any return.

- (iii) That, the assessee does not possess any knowledge of income-tax proceedings and on account of such ignorance, the assessee could not make effective compliance or submissions before lower authorities.
- (iv) That, the assessee has filed a copy of complete bank statement for the financial year 2011-12 at Pages 14 to 30 of Paper-Book and also filed complete understandable details of each entry of deposit and withdrawal at Pages 5 to 13 of Paper-Book.
- (v) That the AO has treated the aggregate of entries of cash deposits amounting to Rs. 10,27,541/- in bank a/c as income of assessee. However, the deposits represent the gross receipts of small business of electricity contractor carried on by assessee. Ld. AR drew the bench to the various deposits entries to show that most of the deposits are of small or moderate amounts in hundreds/thousands of rupees spread over the year which are also followed by cash withdrawals of small or moderate amounts in hundreds/thousands throughout the year. Further, the running and closing balance in bank a/c is also negligible. There are neither heavy deposits/withdrawals nor there is any inordinate balance in assessee's a/c justifying the addition made by AO.

5. Having submitted these facts, Ld. AR submitted that in the situation of assessee, the AO ought to have assessed only income element instead of deeming the entire gross-receipts as income. Ld. AR submitted that either the assessee should be assessed @ 8% of gross sales turnover as per presumptive section 44AD of Income-tax Act, 1961.

6. Ld. DR for revenue left the issue for the wisdom of bench. However, he proposed that in the event the bench decides to apply net profit rate as submitted by Ld. AR, he would suggest to apply 12% net profit rate since the activity of assessee is such which is likely to generate a higher profit.

7. We have considered the rival submissions, perused the material placed on record and carefully examined the facts of the case. It is an undisputed fact that the impugned assessment was completed ex-parte and the entire cash deposits of Rs. 10,27,541/- appearing in the assessee's bank account were treated as unexplained income without going into the nature and source of such deposits. It is also not in dispute that the assessee has now placed on record the complete bank statement along with an entry-wise explanation of deposits and withdrawals. From a perusal of the bank statement, we find considerable force in the submission of the Ld. AR that the deposits are of small and moderate amounts spread throughout the year and are accompanied by frequent withdrawals of similar magnitude. The running balances in the bank account are also negligible. These factual aspects lend credence to the claim of the assessee that the deposits

represent business receipts from petty electrical contracting work rather than unexplained income from undisclosed sources.

8. It is a settled principle that where deposits in a bank account are found to be linked with business activity, the entire deposits cannot be treated as income of the assessee. In such circumstances, only the income element embedded in the gross receipts can be brought to tax. Therefore, the approach adopted by the AO in taxing the entire deposits is not sustainable. Considering that the assessee is a petty electrical contractor and the pattern of bank transactions, we are of the considered view that the estimation of income is the most appropriate course in present case. The submission of the Ld. AR to apply presumptive taxation provisions of section 44AD is reasonable and justified. At the same time, the suggestion of the Ld. DR for application of a slightly higher net profit rate also deserves consideration to balance the equities. Therefore, in the facts and circumstances and after due consideration of the pleadings made by both sides, we deem it fit and proper to estimate the income of the assessee by applying a net profit rate of 12% on the gross receipts of Rs. 10,27,541/-. Accordingly, the addition made by treating the entire cash deposits as unexplained income is set aside and the AO is directed to recompute the income of the assessee by applying net profit @ 12% on the aforesaid gross receipts. Consequential relief shall be allowed to the assessee. Necessary computation shall be made by AO. We make it clear that the present adjudication is based on examination of the set of facts of this case and the

submissions of parties, which shall not be treated as a precedent to be followed in other cases.

9. Resultantly, this appeal of assessee is allowed partly.

Order pronounced in the open court on 03/02/2026

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 03.02.2026

Patel/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore