

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

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

ITA No.7297/Mum/2025
(Assessment Year: 2017-18)

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| Ms. Norma Joseph Baptista, 65, Gauthan Lane, Opp Radio Club, Andheri West, Mumbai – 400 058 | Vs. | Income Tax Officer, Ward 24(3)(1) Lalbaug, Mumbai – 400 012 |
| PAN:AFLPB0834K | | |
| (Appellant) | : | (Respondent) |

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| Assessee by | : | Shri Vimal Punmiya, AR |
| Respondent by | : | Shri Layaqat Ali Aafaqui, Sr. AR |

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| Date of Hearing | : | 04.02.2026 |
| Date of Pronouncement | : | 09.02.2026 |

ORDER

Per Kavitha Rajagopal, JM:

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) 2017-18.

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

“Ground No 4 - On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in not allowing one more opportunity to explain the case before A.O. ignoring the fact that assessment order was passed u/s 144 of the Act & CIT (A) is empowered to set aside the exparte assessment made u/s 144.

Ground No.5 - The appellant craves leave to alter, amend, modify OR substitute any ground / grounds and to add any new ground OR grounds on OR before the appeal is disposed off.



Ground No 1 - On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming the addition made by the A.O. of Rs. 1,12,32,500/-without appreciating the facts of the case.

Ground No 2 - On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in not accepting the cash sale of country liquor in spite of the admitted fact on record that appellant purchased country liquor from various parties who collected TCS & the same are appearing in Form 26AS available on record of the A.O.

Ground No 3 - On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in not accepting the fact that source of cash deposited in bank account was on account of cash sale of country liquor ignoring the fact that cash sale is an established practice in this line of business of running a country liquor bar.”

3. Brief facts of the case are that the assessee is an individual carrying on business as proprietor in the name and style of M/s. Robert Country Liquor Bar and had not filed her return of income for the year under consideration. The assessee's case was selected for scrutiny where the Learned Assessing Officer (“Ld. AO” for short) observed that based on the information received under ‘Operation Clean Money’ the assessee is said to have deposited cash amounting to Rs.17,62,000/- during demonetisation in her bank account maintained with Vijaya Bank (now Bank of Baroda, Andheri West, Mumbai) from 19.11.2016 to 30.12.2016. The Ld. AO further observed that the total credits including cash deposits in the bank account during the year under consideration was Rs.1,12,32,500/- for which the assessee had not filed her return of income. The Ld. AO issued notice u/s 142(1) of the Act seeking for details to explain the source of deposits. As there was no compliance by the assessee the Ld. AO passed the assessment order u/s 144 of the Act being the best judgment assessment vide order dated 19.12.2019 determining the total income at Rs.1,12,32,500/- after making an addition on the impugned amount u/s 69A of the Act.



4. Aggrieved, the assessee was in appeal before the first appellate authority, who vide order dated 22.09.2025 upheld the addition made by the Ld. AO on the ground that the assessee has failed to substantiate the nature and source of the deposits made in her bank account with sufficient documentary evidences.

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

6. The Learned Authorized Representative (“Ld. AR” for short) for the assessee contended that since the assessee being senior citizen aged 64 was unable to attend the proceeding before the Ld. AO but during the first appellate authority had filed all relevant documents to explain the nature and source of the deposits made in her bank account. Further, the Ld. AR stated that the Ld. CIT(A) had sought for a remand report from the Ld. AO on the basis of the additional evidences filed by the assessee during the appellate proceeding but the same was not admitted stating that the assessee has not explained with reasonable cause as to why such documents could not be filed during the assessment proceeding. The Ld. AO during the remand proceeding had merely rejected the assessee’s contention by non-admission of the documentary evidences filed by the assessee. The Ld. AR further argued that the Ld. CIT(A) has also not considered the assessee’s supporting documentary evidences filed before him during the appellate proceeding and had also not specified why the said documents are not accepted. The Ld. AR contended that the Ld. CIT(A) has not decided the issue on the merits of the case as he had *prima-facie* rejected the assessee’s submission without admitting the additional evidences filed by the assessee.



The Ld. AR prayed that the assessee be given one more opportunity to present her case before the lower authorities.

7. The Learned Departmental Representative (“Ld. D.R.” for short), on the other hand, had nothing to controvert and relied on the orders of the lower authorities.

8. We have heard the rival submissions and perused the materials available on record. We find justification in the arguments enhanced by the Ld. AR for the reason that the lower authorities have failed to admit the evidences filed by the assessee during the first appellate proceeding under rule 46A of the Income Tax Rules, 1962 (‘the Rules’ for short) without any reasonableness as to why the same was rejected. Further, it is also observed that the first appellate authority has also not dealt with this issue on the merits of the case without giving a finding on the authenticity of the documents that were filed by the assessee during the appellate proceeding, though the Ld. CIT(A) is co-terminus as that of the Ld. AO. Merely rejecting the additional evidences on the ground that the same was not filed during the assessment proceeding is not justifiable for the reason that the legislature in its wisdom has intended to provide opportunity of furnishing evidences in the nature of additional evidences even during the appellate proceedings which cannot be ignored and there is no specific finding of the lower authorities as to the merits of the evidences filed by the assessee. In the absence of the same, we deem it fit to extend the assessee with one more opportunity to present her case before the Ld. AO, by adhering to the principles of natural justice and in the interest of justice dispensation. The Ld. AO is directed to admit the additional evidences proposed to be filed by the assessee and to decide the issue on the merits and in accordance with law by passing a *denovo* assessment order after giving



sufficient opportunity of hearing to the assessee and the assessee is also directed to strictly comply with the proceeding before the Ld. AO without any undue delay from her side.

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

Order pronounced in the open court on 09.02.2026

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

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

Mumbai; Dated: 09.02.2026

* 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