

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 7247/MUM/2025
Assessment Year: 2015-16**

Shital Bhavin Khatri (Legal
Representative of Late Bhavin
Mahendra Khatri)
1401 Balaji Apartment,
Devidayal Road, Mulund (W),
Mumbai-400080.

**PAN NO. ALLPK 4598 D
Appellant**

Vs. Income Tax Officer,
Kautilya Bhavan, C-41 –
43, Avenue 3, Near Videsh
Bhavan, G Block BKC,
Bilban Area, Bandra Kurla
Complex Bandra East,
Mumbai-400051.

Respondent

Assessee by : Mr. Jainam Gala, CA &
Mr. Vicjey Chheda
Revenue by : Mr. Yogesh Kamat, CIT-DR

Date of Hearing : 24/02/2026
Date of pronouncement : 27/02/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against the order dated 11th September 2025 passed by the Ld. Commissioner of Income-Tax - National Faceless Appeal Centre, Delhi [in short "the learned CIT(A)"], for the assessment year 2015-16.



2. The solitary grievance of the Assessee relates to the sustenance of an addition amounting to ₹77,50,284/-, predicated on a discrepancy between the gross receipts reflected in Form No. 26AS and the turnover disclosed in the Assessee's books of account.

3. Briefly stated, the facts are that the Assessee is an individual engaged in the business of a civil contractor under the proprietary concern **M/s Shilpi Associates**. For the year under consideration, the assessee filed his return of income on 28th March 2016, declaring a total income of ₹10,55,750/-. The case was subsequently selected for limited scrutiny. During the scrutiny proceedings, the Assessing Officer noted that as per Form No. 26AS, the assessee received Rs.79,28,938/- from M/s Brooks Brothers India Pvt. Ltd. and Rs.24,55,693/- from M/s Reliance Brands Limited, aggregating to Rs.1,03,84,631/-. However, the profit and loss account of the assessee reflected sales of Rs.65,81,057/- only.

4. The Assessee contended that the differential amount of ₹77,50,284/- had already been recognized as income in the preceding financial year (F.Y. 2013-14) corresponding to A.Y. 2014-15. It was submitted that the deductors had accounted for the transactions and deducted tax (TDS) in the subsequent year (F.Y. 2014-15), resulting in a timing mismatch. The Assessing Officer issued notice u/s 133(6) of the Act, to both the parties. M/s



Reliance Brands Ltd. responded by denying having any transaction in financial year 2013-14 and no response was received from Brooks Brother India Pvt. Ltd. The AO, noting a denial of transactions in F.Y. 2013-14 by M/s Reliance Brands Ltd. and a lack of response from M/s Brooks Brothers, treated the entire sum of ₹77,50,284/- as undisclosed income for the impugned year.

5. On further appeal, the Ld. CIT(A) affirmed the addition, holding that the Assessee failed to discharge the primary onus of proving that the receipts were offered to tax in the earlier year. The Ld. CIT(A) further observed that in the absence of third-party confirmations or audited reconciliations, the credit appearing in Form 26AS for the current year must be deemed as the "real income" of the year in which the tax was deducted. The relevant finding of ld CIT(A) is reproduced as under:

“5.2 GROUNDS OF APPEAL NOS. 2 to 6: The appellant during the appellate proceedings stated that the Assessing Officer erred in recomputing income at 88,06,034/- by adding entire difference in gross receipts. Assessing Officer erred in not adjusting various direct and indirect expenses, thereby duplicating income. The appellant is a small contractor and had declared turnover of 65,81,057/- with net income of 10,55,750/-. Further, as per appellant, out of the gross receipts reflected in Form 26AS of 1,03,84,631/-, a sum of 77,50,284/- was already accounted in F.Y. 2013-14. However, the payer company booked it in F.Y. 2014-15 and deducted TDS in that year, leading to mismatch. Further, the appellant stated that Assessing Officer wrongly added the entire 77,50,284/- to the income of F.Y. 2014-15 without considering the fact that it was already declared in earlier year. If such addition is made, then expenses of 71,25,611/- pertaining to these receipts must also be allowed, else there is duplication of income. In reality, the difference in gross receipts was only 39,46,410/-, but the Assessing Officer added the



entire amount. This has resulted in double taxation and a high-pitched assessment, contrary to principles of natural justice.

Assessing Officer compared Form 26AS with the sales declared by the appellant and found that receipts were substantially higher than those disclosed. Notice u/s 133(6) was issued to both parties (Reliance Brands Ltd. and Brooks Brothers India Pvt. Ltd.). Reliance Brands Ltd. categorically denied any transaction with the appellant in F.Y. 2013-14, contradicting the appellant's claim. As per Assessing Officer, the assessee could not obtain confirmations from the parties or produce independent evidence to substantiate the claim that receipts pertained to F.Y. 2013-14. Since TDS was deducted and credited in F.Y. 2014-15, receipts were rightfully taxable in this year. The onus of proving that receipts belong to an earlier year lies squarely on the assessee, which he failed to discharge. Hence, Assessing Officer treated 77,50,284/- as receipts of the current year and computed total income accordingly at 88.06.034/-.

The appellant has argued that receipts of 77,50,284/- were already Vaccounted in F.Y. 2013-14. However, no corroborative evidence has been produced to demonstrate that such receipts were indeed declared as income in the earlier year. Mere entries in self-maintained books are insufficient unless backed by third-party confirmations, audited accounts, or reconciliation accepted by the concerned deductors. On the contrary, Reliance Brands Ltd., a major payer, has specifically denied any transaction in F.Y. 2013-14. This denial weakens the appellant's case considerably. Therefore, the Assessing Officer's action of treating the receipts as pertaining to F.Y. 2014-15 is correct in law. The appellant's plea that proportionate expenses of 71,25,611/- should also be allowed is not sustainable. These expenses have already been claimed in earlier year against turnover shown for that year. Allowing them again would amount to double deduction. Since appellant failed to establish that receipts pertained to F.Y. 2013-14, the question of adjusting earlier year's expenses in current year does not arise. The allegation of over-assessment and multiplicity of additions is also not tenable. The Assessing Officer has simply brought to tax receipts reflected in 26AS which were not shown in books for this year. No income has been taxed twice. In fact, the claim of earlier year recognition is unsupported by evidence and stands contradicted by payer's confirmation. Therefore, the addition cannot be termed as duplication. The appellant has sought relief on the ground that only "real income" can be taxed. It is settled law that receipts evidenced by TDS deduction and credited in assessee's account during the year are real and taxable income of that year, unless assessee demonstrates with documentary proof that such receipts have already been offered in earlier year. Since appellant has failed to discharge this onus,



Assessing Officer's action stands justified. In view of the above, I hold that the Assessing Officer has correctly added 77,50,284/- to the income of the assessee. The appellant's contentions of duplication, allowance of earlier year expenses, and high-pitched assessment are devoid of merit. Accordingly, Grounds No. 2, 3, 4, 5 & 6 are dismissed."

6. Before us, the Ld. Counsel for the Assessee vehemently argued that the assessment was concluded in haste on 19.12.2017, despite a request for an adjournment until 26.12.2017 to submit a detailed reconciliation. It was submitted no reasonable opportunity was provided to the assessee to explain the reconciliation of the receipt which were appearing in the Form No. 26AS and not offered for tax in the assessment year under consideration with the income already offered in assessment year 2014-15 i.e. immediately preceding assessment year. The assessee filed detailed reconciliation statement along with profit and loss account for assessment year 2014-15 and return of income for assessment year 2014-15, which clearly demonstrate that the impugned receipts were subjected to tax in that year but the Ld. CIT(A) without considering dismissed the prayer of the assessee. Conversely, the Ld. Departmental Representative (DR) relied heavily on the orders of the authorities below, emphasizing the categorical denial by the deductor.

7. We have heard the rival submissions and perused the material on record. The core controversy revolves around a "timing mismatch" between the recognition of income by the Assessee (on



accrual basis) and the deduction of tax by the payees. It is a fundamental principle of taxation that the same income cannot be taxed twice. If the Assessee has already offered the receipts to tax in A.Y. 2014-15, bringing the same to tax again in A.Y. 2015-16 merely because the TDS was reflected in the latter year would lead to double taxation, which is impermissible in law. The issue in dispute is reconciliation of the receipt in respect of two parties shown by the assessee in assessment year 2014-15 along with detail of the Form 26AS comprising of receipt from two parties. It is the contention of the assessee that the receipt which the Assessing Officer has added in the assessment year 2015-16 i.e. the current assessment year have already offered in the immediately preceding assessment year 2014-15.

8. The claim of the Assessee requires rigorous factual verification. The reconciliation between the bills raised in F.Y. 2013-14 and the corresponding entries in the current year's Form 26AS is a matter of record. We find that the Assessee was not afforded a sufficient opportunity to present this reconciliation before the AO, and the Ld. CIT(A) failed to examine the fresh evidence (P&L account of the preceding year) in the right perspective.

9. Therefore, in the interest of justice and to prevent the miscarriage of equity, we deem it fit to set aside the impugned order and restore the matter to the file of the Assessing Officer. The AO is



directed to (i) Conduct a de novo verification of the reconciliation statement provided by the Assessee, (ii) Examine the bills issued in A.Y. 2014-15 and verify if the corresponding income was indeed offered to tax in that year, and (iii) Allow the Assessee a reasonable opportunity of being heard and to produce necessary third-party evidence or certificates from the deductors and then decide the issue in accordance with law. Accordingly the ground No. 1 and 2 of the appeal of the assessee are allowed.

10. Consequently, Grounds No. 1 and 2 are allowed for statistical purposes. Since the primary issue is remanded for verification, the remaining grounds are rendered academic and do not require separate adjudication.

11. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 27/02/2026.

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

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

Mumbai;
Dated: 27/02/2026
Rahul Sharma, Sr. P.S.



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,
(Assistant Registrar)
ITAT, Mumbai