

**आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“G” BENCH, MUMBAI**

**BEFORE SMT BEENA PILLAI, JM &**  
**SHRI ARUN KHODPIA, AM**

**I.T.A. No.6168/Mum/2025**  
(Assessment Year: 2017-18)

|  |     |  |
|--|-----|--|
| <b>ITO-42(1)(4),</b><br>Room No. 736, 7 <sup>th</sup> Floor,<br>Kautilya Bhawan, G-Block,<br>BKC, Bandra East,<br>Mumbai-400051. | Vs. | <b>Willish Mukesh Maru,</b><br>B-406, Raj Residency 2 CHSL,<br>Mahavir Nagar, Dahanukar Wadi,<br>Kandiwali West,<br>Mumbai-400067.<br><b>PAN: ACJPM9340A</b> |
| <b>Revenue - अपीलार्थी / Appellant</b>   | :   | <b>Assessee - प्रत्यर्थी / Respondent</b>  |

**Assessee by** : Shri Pravin Adake & Shri Kartik  
Dedia, AR

**Revenue by** : Shri Raghvendra P. Chambolkar,  
Sr. DR

**Date of Hearing** : 12.02.2026

**Date of Pronouncement** : 09.03.2026

**ORDER**

**Per Arun Khodpia, AM:**

This appeal is preferred by the revenue challenging the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [in short “Ld. CIT(A)”], dated 16.07.2025 for the Assessment Year (AY) 2017-18, which in turn arises from the order passed u/s 143(3) of the Income Tax Act, 1961 (in short “The Act”) dated 22.12.2019 passed by ITO,

Ward-33(1)(7), Mumbai. The grounds of appeal raised by the revenue are as under:

*“(1) "On facts and circumstances of the case and in law, the learned CIT(A) erred in deleting the addition of Rs. 78,42,600/- made under section 68 of the Income-tax Act, 1961, without considering that, during assessment proceedings, the assessee could not offer explanation with regard to the source of cash credit.”*

*“(2) "On facts and circumstances of the case and in law, the learned CIT(A) erred in not calling for the remand report from the AO during appellate proceeding and deleting the addition made by the AO merely because Ld. CIT(A) was not satisfied with the AO's findings during assessment proceedings.”*

2. Briefly stated the assessee's case was selected for scrutiny under CASS, accordingly notice under section 143(2) and 142(1) of the Act were issued. During the assessment proceedings, it is noted that the assessee is an individual engaged in the business during the year under consideration. In the ITR filed, business income was shown for Rs. 15,90,820/- and Income from Other Sources for Rs. 89,794/-. It is observed by the ld. AO that during the demonization period, assessee made cash deposit of Rs. 78,42,600/- in his Axis Bank a/c, the assessee was requested to explain nature and source of such cash deposits. Before the ld. AO there was no submission by the assessee, therefore the entire amount of cash deposit has been treated as unexplained cash credit under section 68 of the Act and added to the income of the assessee. Being aggrieved the assessee preferred an appeal before the ld. CIT(A), who had granted relief to the assessee based on submissions made by the assessee before the ld. CIT(A) with the following observations:

*“Decision : I have carefully considered the submission/grounds of appeal made by the appellant as above, the facts of the case as well as gone through the observation and findings of the AO 's assessment order .It is observed from the assessment order that the AO has passed the order after taking the cash deposit of Rs 78,42,600/- as unexplained cash credit merely for non compliance of show cause notice on the part of the appellant without bringing any cogent material in support of additions and without proper independent enquiry and investigation in this regard I find the AO, despite appellant's submission of Balance Sheet, P & L Account, computation of income & bank statement, is unable to either detect any discrepancy in accounts or pointed out a single anomaly in accounts in course of assessment procedure despite hearing noted down in assessment order vide dated 31-08-2018 13-11-2019,05-12-2019,21-12-2019.*

*In view of above considering the entire conspectus of the case, in the given facts and circumstances of the case and also looking to the fact that no speaking order bringing cogent material on record, has been passed by the Assessing Officer in relation to the additions in this case and in view of above observation the addition of Rs. 78,42,600/- made by the AO on account of unexplained cash deposit/credit, stand deleted. The **ground** relating to this issue is **allowed.**”*

3. As the appeal of assessee has been allowed by the ld. CIT(A) deleting the entire quantum addition made under section 68 of the Act, the revenue, being felt aggrieved, has preferred the present appeal before us.

4. At the outset, the ld. Sr. DR representing the revenue submitted that in the present matter there was no submission by the assessee before the ld. AO. Certain submissions were made by the assessee before the ld. CIT(A), those were accepted by the ld. CIT(A) without any enquiry or verification, alleging that the ld. AO was failed to bring any cogent material on record in support of additions and there were no proper independent enquiries or investigations by the ld. AO. It was the submission that any information, evidence or explanation furnished by the assessee before the ld. CIT(A), which was for the first time and never produced before the ld. AO was to be referred to ld. AO for verification

and for his comments as per Rule 46A of the Rules but ld. CIT(A) had not it considered necessary to do so. There was a gross violation of the provisions of the Act. Even the facts and information furnished before the ld. CIT(A) were not verified by him except finding fault in the actions of the ld. AO. The relief granted by the ld. CIT(A) was not in accordance with the mandate and provisions of Act, the matter therefore needs proper verification to the satisfaction of ld. AO, if any relief is justifiable and to be granted.

5. On the other hand, ld. AR of the assessee submitted that all the information requisite along with the evidences were furnished before the ld. CIT(A), who had properly appreciated the facts of the case, therefore the decision granted by the ld. CIT(A) was proper, justified and deserves to be upheld. On the issue of violation of Rule 46A, the ld. AR agreed that such provisions were not followed by the ld. CIT(A), therefore if the matter is remitted back to the file of ld. AO, the assessee would not have any objection to that.

6. We have considered the rival submissions and perused the material available on record and the orders of revenue authorities. Admittedly in present case, the assessee was a non-compliant before the ld. AO, which led the AO to make an addition under section 68 of the Act. Before ld. CIT(A), the assessee furnished some information, which according to provisions of Rule 46A was required to be referred to the ld. AO for his comment in the form of a remand

report but such exercise was not considered necessary by the ld. CIT(A). Such action of Ld. CIT(A) depicts gross contravention of the compliance of provisions of Rule 46A. Further, as fairly conceded by both the parties that the matter needs proper verification and enquiry at the end of ld. AO, the same can be appropriately restored back to the file of ld. AO for fresh adjudication. We, thus, in terms of aforesaid observations deem it fit to restore this matter to the file of ld. AO for fresh adjudication.

7. Needless to say, reasonable opportunity of being heard to be allowed to the assessee. The assessee is also directed to co-operate and proactively comply with the set-aside assessment proceedings, failing which the ld. AO would be at liberty to pass an appropriate order in accordance with the mandate of law.

8. In result the appeal of revenue is allowed for statistical purposes.

*Order pronounced in the open court on 09-03-2026.*

***Sd/-***  
**(BEENA PILLAI)**  
**Judicial Member**

Mumbai, Dated : 09-03-2026.

*\*SK, Sr. PS*

***Sd/-***  
**(ARUN KHODPIA)**  
**Accountant Member**

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**