

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "J(SMC)" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA No. 8928/MUM/2025(AY:2016-17)**

Sunil Maruti Vekhande, Dahagaon Road Dahagaon Road At Post Vasind W, Tal Shahapur, Thane-421601.	vs.	ITO-2(2), Kalyan, Maharashtra, Thane-421306.
PAN/GIR No: AGYPV5501H		
(Appellant)		(Respondent)
Appellant by	Shri Ravikant Pathak	
Respondent by	Shri Aditya Rai (SR DR)	
Date of Hearing	11.02.2026	
Date of Pronouncement	09.03.2026	

ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short, 'CIT(A)'], dated 31.07.2025 for the assessment year (AY) 2016-17.

2. The grounds of appeal raised by the assessee are as under:

"1. The Commissioner of Income Tax (Appeals), National Faceless Appeal Centre ['CIT(A)'] erred in confirming the action of the AO in making the addition of Rs. 2,47,000/- (i.e. Rs. 3,10,500 being 50% of business receipts of Rs. 6,21,400 - Rs. 63,500/- being income already offered by the Appellant) by holding that section 44AD of the Income Tax Act, 1961 (Act) does not apply to the business of the Appellant.

2. (a) The CIT(A) erred in confirming the action of the AO in making the addition of Rs. 28,71,500/- being allegedly cash deposited in following bank accounts of the Appellant:

Sr	Bank name	Amount
1	Gopinath Parsik Bank	23,82,000
2	Sahebrao Deshmukh Bank	96,000
3	Union Bank of India	65,500
4	TJS Bank	1,28,000
5	Dena Bank	2,00,000
	Total	28,71,500

(b) The CIT(A) erred in confirming the addition of Rs. 28,71,500/- without appreciating the facts that the Appellant does not maintains books of accounts; hence, section 69A of the Act has no application in his case.

The Appellant submits that section 69A of the Act is not applicable in his case; therefore, the addition made by the AO and confirmed by the CIT(A) shall be deleted.

The Appellant craves leave to add, amend, alter, modify, delete any or all grounds of appeal”

3. There is a delay of 83 days in filing appeal before the Tribunal. The appellant has filed a condonation petition supported by a notarized affidavit and submitted that he had filed his return of income for the first time for AY 2016-17. The case was selected for scrutiny and the appellant was not aware as to how the notices are to be complied with. He assigned the work to a tax consultant who appeared before AO and after the assessment order was passed, he advised to file appeal before CIT(A). However, he had no exposure of filing appeal before CIT(A) and hence, he introduced assessee to another tax consultant for appeal purpose. Subsequently, the assessee received a demand notice because the CIT(A) had dismissed the appeal. The tax consultant could not track the appeal proceedings because she was engaged in time barring matters relating to filing of return, statutory audits and tax audits etc. Subsequently, they met a CA who filed

the appeal before the ITAT, which was delayed by 83 days. It was submitted that the delay was not intentional and was purely due to circumstances beyond control of the appellant.

3.1 The Ld. Sr. DR. of the revenue submitted that the Bench may decide the matter as it thinks fit.

3.2 We have considered rival submissions and found that the assessee has filed return for the first time for the subject AY 2016-17. His tax consultant was neither a CA nor an advocate. He was also not conversant with appeal matters including filing of appeal. Considering the submission of the appellant and totality of facts, we are of the view that the small delay of 83 days was not deliberate and intentional. Therefore, in the interest of justice, the delay is condoned.

4. Facts of the case in brief are that the assessee filed his return of income for the AY 2016-17 on 16.03.2017 declaring total income at Rs.1,03,500/-. The case was selected for scrutiny in respect of cash deposits made during the year. The assessee had deposited cash of Rs. 28,71,500/- in various bank accounts. In reply to the query raised by the AO, the assessee submitted that he used to transfer funds from his current account to MOS Utility Private Limited, on which he was getting commission after TDS. However, AO held that the assessee did not submit documentary evidence to prove the genuineness of the cash deposit. Hence, he added Rs. 28,71,500/- u/s 69 of the Act. The AO also added 50% of the

total receipt instead of 8% claim by assessee u/s44AD of the Act. The deferential amount of Rs. 2,47,000/- were added to the total amount.

5. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The appellant contended that he was into the business of money transfer and the details submitted by the appellant was not considered by the AO. The CIT(A) held that the appellant did not give any material to controvert the decision of the AO. He also observed that in spite of numerous opportunities given during the appellate proceedings, the appellant has not responded to any of the notices. Accordingly, the CIT(A) dismissed the appeal of assessee.

6. Aggrieved by the order of CIT(A), the assessee has filed appeal before the Tribunal. The appellant has filed a paper book containing 7 pages, which are communications from the bank as well as bank statements. These documents were not filed before the lower authorities and hence, they would constitute additional evidence within the meaning of Rule 29 of Income Tax Appellate Rules, 1963. The appellant submitted that the AO made addition of cash deposit of Rs. 28,71,500/- u/s 68 of the Act. It was the first AY for which the case of the assessee was selected for scrutiny. He was not aware of how to compile and represent the case before AO. He could not file bank statement of two banks because he was not maintaining accounts with those banks. In respect of the other bank account, he could not file the bank statement due paucity of time and non-availability of reconciliation of the cash deposit. He was prevented by reasonable cause in

adducing the evidences during the assessment and appellate proceedings. The Ld. AR requested to admit the additional evidence in the interest of justice.

6.1 The Ld. Sr. DR. of revenue objected the admission of the additional evidence.

6.2 We have heard both sides and perused the material on record. There is no dispute that the appellant filed return of income for the first time for the subject AY. He was advised by tax consultants who were neither CA nor advocate and were not conversant with assessment proceedings or the procedure for filing appeals. Rule 29 of the Income Appellate Tribunal Rules 1963 permits the ITAT to admit additional evidence for any substantial cause. The intension behind the Rule is that substantial justice should be done and the interest of justice should be the overriding consideration. After considering the submissions made before us, we admit the additional evidence.

7. On merits of the case, the Ld. AR of the assessee submitted that the bank statements and the communication from the bank could not be filed before the lower authorities due to which, the AO made addition of the cash deposit of Rs. 28,71,500/- in the bank accounts u/s 68 of the Act. The CIT(A) dismissed the appeal and confirmed the addition because no material could be submitted to controvert the decision of AO. The Ld. AR submitted that the bank statement etc., now submitted as additional evidence, would explain the nature and source of the cash deposit to escape the addition made u/s 68 of the Act. Since we have already admitted the additional evidence, which were not before the lower

authorities, in the interest of justice, we deem it proper to set aside the order of CIT(A) and restore the matter back to his file for fresh adjudication in accordance with law after granting adequate and reasonable opportunity of hearing to the assessee. The CIT(A) shall consider the additional evidence and he may call for further explanation and details as deemed necessary. Accordingly, the ground is allowed for statistical purpose.

8. Since we have set aside the order of CIT(A) and restored the matter for fresh adjudication, the other grounds raised by the appellant become academic in nature and do not require adjudication.

9. We have not expressed our opinion on the merits of the case, which the CIT(A) shall decide independently as per law on appreciation of the facts of the case and the law on the subject issue.

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

Order is pronounced on 09.03.2026.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(BIJYANANDA PRUSETH)
ACCOUNTANT MEMBER

*Aniket Chand; Sr. PS
MUMBAI

Date: 09.03.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order
Assistant Registrar
ITAT, MUMBAI