

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"G" BENCH, MUMBAI  
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA No. 7172/Mum/2025  
Assessment Year: 2018-19**

<b>Sharayu Synthetics Processors</b>  H NO 1662 Saraswati Compound, Near Ganesh Society, Bhiwandi, Maharashtra-421302  PAN: AASFS5978H  (Appellant)	Vs.	<b>DCIT Appeal</b>  Mohan Plaza Khadakpada Kalyan, Kalyan-Dombivali, Maharashtra-421301     (Respondent)
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Assessee by	Shri Vireandra Popat & Shri Adit Popat
Department by	Shri Swapnil Choudhari, (SR.DR.)

Date of Hearing	19.01.2026
Date of Pronouncement	10.03.2026

**ORDER**

**Per: SHRI JAGADISH, A.M.:**

1. This appeal filed by the assessee is directed against the order dated 27.09.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi under section 250 of the Income Tax Act, 1961 for the assessment year 2018-19 arising out of the assessment framed by the Assessing Officer under section 143(3) of the Act dated 13.08.2021.

2. At the outset, it is noticed that there is a delay of 341 days in filing the present appeal before the Tribunal. The assessee has filed an affidavit explaining the reasons for the delay stating that the appellate order was communicated to the email address of the earlier auditor as well as to the email of a retired partner of the firm and therefore the same did not come to the notice of the assessee in time. It was further submitted that during the relevant period the main partner of the firm suffered severe personal hardship due to the demise of his wife on account of cancer which caused disruption in his day-to-day affairs and therefore the appeal could not be filed within the prescribed time. It was submitted that the assessee came to know about the appellate order only subsequently when penalty proceedings were initiated.
3. After considering the explanation offered in the affidavit and the surrounding circumstances, we are satisfied that the assessee was prevented by sufficient cause in filing the appeal within the prescribed time. Accordingly, the delay in filing the appeal is condoned and the appeal is admitted for adjudication on merits.
4. Brief facts of the case are that the assessee is engaged in the business of processing of grey cloth on job work basis. For the year under consideration the assessee filed return of income declaring total income of Rs.57,52,870/- on turnover of Rs.28,78,22,271/-. During the course of assessment proceedings the Assessing Officer observed that

the assessee had not got its accounts audited under section 44AB of the Act. The assessee had declared net profit of Rs.56,68,768/- which works out to 1.97% of the turnover.

5. During the assessment proceedings the assessee submitted that considering the nature of business and in order to avoid litigation it was willing to offer income at 2.5% of the turnover which comes to Rs.71,95,556/-. However, the Assessing Officer did not accept the same and estimated the income at the rate of 8% of turnover by drawing support from the rate prescribed under section 44AD of the Act. The Ld. CIT(A) upheld the action of the Assessing Officer.
6. Before us, the Ld. Authorised Representative submitted that the provisions of section 44AD are not applicable in the case of the assessee since the turnover exceeds the prescribed limit. It was further submitted that the books of account maintained by the assessee have not been rejected and no specific defects have been pointed out by the Assessing Officer. It was argued that merely because the assessee did not get its accounts audited under section 44AB, the income cannot be estimated at an arbitrary rate of 8%. The Ld. Departmental Representative relied upon the orders of the lower authorities.
7. We have heard the rival submissions and perused the material available on record. The assessee has declared income of

Rs.57,52,870/- on turnover of Rs.28,78,22,271/- resulting in net profit of 1.97%. The Assessing Officer has estimated the income at 8% of turnover primarily on the ground that the assessee has not got its accounts audited under section 44AB of the Act. In our considered view such reasoning cannot be sustained. The Act contains specific provisions to deal with situations where the assessee fails to comply with the requirement of audit under section 44AB. However, merely because the assessee has not complied with the provisions of section 44AB, the income cannot be estimated on that basis alone. In the present case there is no dispute that the assessee has maintained books of account and the Assessing Officer has not pointed out any defects therein nor rejected the books of account under section 145(3) of the Act. The estimation of income at the rate of 8% by drawing analogy from section 44AD is also not justified as the said provision applies only to eligible businesses within the prescribed turnover limit whereas the turnover of the assessee in the present case exceeds Rs.28 crore.

8. At the same time, it is also a matter of record that during the course of assessment proceedings the assessee itself offered to estimate its income at the rate of 2.5% of turnover. Considering the totality of facts and circumstances of the case and in the interest of

fairness, we direct the Assessing Officer to adopt the income at the rate of 2.5% of the total turnover as offered by the assessee.

9. In the result, the appeal of the assessee is partly allowed.

*Order pronounced in the open court on 10/03/2026.*

**Sd/-**

**(SAKTIJIT DEY)**

**VICE PRESIDENT**

**Sd/-**

**(JAGADISH)**

**Accountant Member**

Mumbai, Dated: 10/03/2026

Ankit

Sr. Private Secretary

**Copy of the order forwarded to:**

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Assistant Registrar)  
ITAT, Mumbai