

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.631/Ind/2025
Assessment Year:2011-12

Nilesh Jain, 1, Gandhi Chowk, Chandrawati Ganj Indore (Assessee/Appellant)	<u>बनाम/</u> <u>Vs.</u>	ITO 1(1) Indore (Revenue/Respondent)
PAN: AJXPJ3919M		
Assessee by	Shri Pankaj Mogra, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	13.04.2026	
Date of Pronouncement	17.04.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 26.09.2024 passed by learned Commissioner of Income-Tax (Appeals)-Addl/JCIT(A)-12, Mumbai ["CIT(A)"], which in turn arises out of assessment-order dated 10.12.2018 passed by learned ITO-1(1), Indore ["AO"] u/s 143(3)/147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2011-12, the assessee has filed this appeal.

2. The registry has informed that the present appeal is delayed by 231 days and therefore time-barred. The assessee has filed an application/

affidavit for condonation of delay; the same is scanned and re-produced for an immediate reference:

(22)

Serial No. 172571

Date 8 JUL 2025

AFFIDAVIT

Name	:	Shri Nilesh Jain
Father's Name	:	Shri Rajmal Chhajed
Age	:	50 Years
Address	:	0 , Gandhi Chowk , Chandrawati Ganj, Indore, Madhya Pradesh, 453551
Occupation	:	Business

I, the above named deponent hereby state on solemn affirmation as under:

- 1]. That an order has been passed by Ld. ADDL/JCIT (A)-12, Mumbai in my case on 26.09.2024 for the AY 2011-12.
- 2]. That I had entrusted the responsibility of handling the tax matters including timely making the compliances to all notices issued by tax authorities from time to time to my Accountant. Unfortunately, the accountant failed to regularly check his email where the communication from the Income Tax Department was received and the notice issued by the Department and the order as passed by the Ld. Addl. CIT (Appeals) was not seen by him and the same was not brought to my attention in time.
- 3]. Later on, a penalty order under section 271(1)(c) was passed in my case for the year under consideration on 25.06.2025. This was the first time I became aware about the dismissal of the appeal as preferred by me for the AY 2011-12 against the order passed by the Ld. AO u/s 143(3) r.w.s.147 of the Act for the AY 2011-12.
- 4]. Thereafter I have forwarded the said order to my Income Tax Counsel for legal opinion and doing the needful. That my counsel has then advised me to file an appeal before the Hon'ble ITAT against the said order passed by Ld. ADDL/JCIT (A)-12 for the A.Y.2011-12 on 26.09.2024. That considering the said advice the appeal has been prepared and the same is now sent for filing before the Hon'ble ITAT.
- 5]. That what has been stated by me in paras 1 to 4 above is true and correct.


Place: Indore

Dated: 18/07/2025

SWORN BEFORE ME

[Signature]
SHRI YADAV
INDORE

[Signature]
Shri Nilesh Jain



3. The averments made by assessee in above affidavit, which are self-explanatory and which do not require repetition, were discussed and the Ld. DR for revenue does not have any objection if the bench condones delay and accordingly left it to the wisdom of bench. We have considered the explanation advanced by assessee and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387*** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Thus, taking into account the facts of case, the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view, condone delay, admit appeal and proceed with hearing.

4. The background facts leading to present appeal are as under:

- (i) The assessee-individual is a small trader engaged in the business of oil cake (khali) at a small town 'Chandrawati Ganj'. For AY 2011-12, the assessee did not file any return. The AO, on the basis of information in his possession revealing that the assessee made cash

deposits of Rs. 31,75,000/- in bank a/c during the previous year 2010-11 relevant to AY 2011-12, issued notice dated 21.03.2018 u/s 148 to make assessment u/s 147. In response, the assessee filed return declaring a total income of Rs. 1,76,000/- consisting of presumptive income from business u/s 44AD (8% of turnover of Rs. 22,00,000/-). During further proceeding, when the AO asked assessee to explain the source of deposits in bank a/c, the assessee filed following reply which is re-produced by AO in Para 4 of assessment-order:

“वर्ष 2010-11 में करदाता का खली कपास्या का व्यापार था । वर्ष 2010-11 के दौरान जो रकम जमा कराई गई है, उसमें 22 लाख रु. वर्ष 2010-11 के दौरान खली कपास्या व्यापार का विक्रय करने से प्राप्त हुए । दिनांक 07.06.2010 को रु. 500,000/- सेविंग खाते से निकाले गए थे जो दिनांक 08.06.2010 को रु. 294,000/- बैंक में नकद जमा कराए गए । बाकी रकम डेटर्स से प्राप्त राशि थी, जो बैंक खाते में जमा कराई गई । डेटर्स के खातों की नकल प्रस्तुत की जा रही है । वर्ष 2009-10 की लाभ हानि खाता, बैलेंस शीट की नकल प्रस्तुत की जा रही है ।”

[underlined by us]

- (ii) The AO considered assessee's reply and accepted sources explained upto Rs. 22,00,000/- equivalent to the turnover of business declared by assessee u/s 44AD. However, the AO rejected the recovery of Rs. 6,57,923/- from debtors claimed by assessee as source for making deposits and made addition to that extent u/s 68. The order passed by AO is re-produced below:

“4.1 करदाता द्वारा खली कपास्या व्यवसाय से कुल बिक्री रु. 22,00,000/- का दावा किया गया एवं उसे उनके सेविंग बैंक खाते में जमा करवाने का दावा किया गया । निर्धारण कार्रवाई के दौरान करदाता से संबंधित बिल्स वाउचर्स प्रस्तुत करने के लिए कहा गया लेकिन वे ऐसा नहीं कर सके एवं कारण यह बताया गया कि लंबा समय बीत जाने के कारण उनके पास संबंधित खरीदी बिक्री बिल्स उपलब्ध नहीं हैं एवं साथ ही यह भी कहा उनके बैंक खाता देखने पर उनके द्वारा यह व्यवसाय किया जाता स्पष्ट होता है क्योंकि खली कपास्या व्यवसाय करने वाले संस्थान प्रहलाद मिल्स, वेंकटेश्वर कंपनी, कमलेश्वर इंडस्ट्रीज इत्यादि को उनके द्वारा खरीदी के संबंध में चैक्स/आरटीजीएस के माध्यम से भुगतान किए गए हैं। सत्यापन करने पर यह पाया गया कि करदाता द्वारा विचाराधीन वर्ष के दौरान इन संस्थानों को कुल रु. 32,39,798/- का भुगतान किया गया था । इस तथ्य को ध्यान में रखते हुए करदाता द्वारा दावा की गई बिक्री रु. 22,00,000/- मान्य की जाती है ।

4.2 करदाता द्वारा प्रस्तुत उक्त जवाब डैटर्स से नकद वापसी के संबंध में निम्नानुसार तथ्यों के आधार पर अमान्य किया जाता है :-

1. करदाता द्वारा वर्ष 2009-10 की लाभ हानि खाता एवं बैलेंस शीट की नकल नहीं प्रस्तुत की गई, जबकि इस हेतु उनको निर्धारण कार्रवाई के दौरान भरपूर एवं समुचित अवसर प्रदान किए गए ।
2. करदाता द्वारा दावा किया गया था कि उनको विचाराधीन वर्ष के दौरान पुराने डैटर्स से उनकी धनराशि, नकद में वापस प्राप्त हुई थी, जिसे उन्होंने बैंक में जमा करवाया था । करदाता द्वारा कुल 12 डैटर्स के खातों की नकलें प्रस्तुत की गई एवं इनमें कुल रु. 657,923/- की नकद राशि वापस प्राप्त होना बताया गया । ये भी डैटर्स पुष्टिपत्र/खाते की नकल स्वीकार करने योग्य नहीं हैं क्योंकि ये सारे एकसे पैटर्न पर बने हुए हैं एवं इन पर एक ही पैन से हस्ताक्षर किए हुए हैं एवं सभी हस्ताक्षर एक ही व्यक्ति द्वारा किए हुए स्पष्टतः लगते हैं । इस प्रकार पाया गया कि ये पुष्टिपत्र नकली एवं बनावटी हैं ।
- 3 निर्धारण कार्रवाई के दौरान करदाता से कहा गया कि इन सभी डैटर्स को प्रस्तुत करें लेकिन करदाता ऐसा नहीं कर पाए ।
4. करदाता निर्धारण कार्रवाई के दौरान, संबंधित बिल्स एवं आवश्यक विवरण भी प्रस्तुत नहीं कर पाए जिनके आधार पर करदाता द्वारा उपरोक्त सभी डैटर्स से ये राशियां प्राप्त करना था ।

4.3 उपरोक्त सभी तथ्यों के प्रकाश में यह माना जाता है कि करदाता द्वारा रु. 657,923/- जो कि डैटर्स से प्राप्त होने का दावा किया गया है, वह बनावटी एवं मनगढ़ंत है एवं जिसके संबंध में करदाता द्वारा वास्तविक सुसंगत प्रपत्र नहीं प्रस्तुत किए जा सके ।

अतः इस संबंध में करदाता द्वारा प्रस्तुत जवाब अमान्य किया जाता है एवं यह माना जाता है कि रु. 657,923/- की राशि वास्तव में करदाता द्वारा विचाराधीन वर्ष के दौरान अर्जित की हुई आय है, जिसे करारोपण हेतु उनके द्वारा प्रस्तुत नहीं किया गया। अतः उपरोक्त सभी तथ्यों के प्रकाश में रु. 657,923/- नकद बैंक जमा राशि के स्रोत आयकर अधिनियम, 1961 की धारा 68 के अधीन अस्पष्टीकृत माने जाते हैं। तदनुसार करदाता की आय में रु. 657,923/- की वृद्धि की जाती है।”

(iii) Aggrieved, the assessee carried matter in first-appeal but did not get any success. Now, the assessee has come before us in present appeal.

5. The sole issue involved in present appeal is the addition of Rs. 6,57,923/- made by AO u/s 68.

6. Before us, Ld. AR for assessee filed Written-Submission; the same is re-produced below:

“BACKGROUND OF THE CASE:

A.1] *The assessee is a small trader and was carrying on the business of trading of Cotton Seed Oil Cake (Khali) during the year under consideration at small town Chandrawati Ganj.*

A.2] *The Case for the year under consideration was reopened by the Ld. A.O. u/s 148 of the Act on 21.03.2018 for the reason that during the year under consideration the appellant has deposited cash of Rs. 31,75,000/- in his Saving Bank Account but he has not filed the return of total income for the A.Y. 2011-12.*

A.3] *The appellant has duly filed its return in response to the notice issued u/s 148 on 03.07.2018 declaring total income of Rs. 1,76,000/-.*

A.4] *That during the course of assessment proceedings it was explained by the him that an amount of Rs. 22,00,000 in cash was deposited by him in Bank out of the current year's sales, Rs. 2,94,000 was deposited by him in Bank out of the cash withdrawal from bank, and Rs. 6,57,923 was deposited out of realization from debtors and the balance amount of Rs. 23077/- was deposited by him out of the available cash balance.*

A.5] *The Ld. A.O. has partly accepted the submission made by the appellant, and has not accepted the submission of assessee with respect to the amount of cash*

deposited in his bank account on account of recovery from the debtors and has added the said amount of Rs. 6,57,923/- to the Total Income of the Assessee u/s 68 of the act while passing the Re-assessment Order passed U/s 143(3)/147 of the Income Tax Act dated 10/12/2018.

A.6]. That against the said order the appellant had filed an appeal before the Ld. CIT(Appeals), however the Ld. CIT(Appeals) has maintained the said addition of Rs. 6,57,923/- made by the Ld. AO. Vide his order dt. 26.09.2024

A.7] The present appeal before the Hon'ble Bench has been preferred by the Appellant against the order as passed by the Ld. AO u/s 143(3)/147 of the Income Tax Act dated 10/12/2018 for the Assessment Year 2011-12 and confirmed by the Ld. CIT(A) vide order passed on 26.09.2024.

SUBMISSIONS IN THE APPEAL ON MERITS OF THE CASE:

1.1] That in the present appeal the appellant has challenged the addition made by the Ld. A.O. of Rs. 6,57,923/- to his total income as his Income from undisclosed sources u/s 68 of the Act even when the amount was deposited by him in the Saving Bank Account on account of recovery from the Debtors.

1.2) That the appellant is an individual and a small trader who was carrying on the business of trading of Cotton Seed Oil Cake (Khali) at very small village Chandrawatiganj near Indore. He has filed the return of Total income in response to the notice u/s 148 for the year under consideration declaring the Business Income u/s 44AD of the Act showing business income of Rs. 1,76,000/-. Copy of the same is available on pages 2 to 3 of the paper book

1.3] That during the course of Assessment Proceedings the Ld. A.O. has asked from the appellant to furnish the details about the source of cash deposit of Rs. 31,75,000/- in his saving bank accounts.

1.4) That appellant had duly submitted the details in respect of cash deposited by him the bank account. That he has substantiated the Total amount of Cash deposited in bank account of Rs. 31,75,000/- by explaining that an amount of Rs. 22,00,000 in cash was deposited by him in Bank out of the current year's sales, Rs. 2,94,000 was deposited by him in Bank out of the cash withdrawn from bank, and Rs. 6,57,923 was deposited out of realization from debtors and the balance amount of Rs. 23077/- was deposited by him out of the available cash balance. Copy of Bank Account of the assessee for the year under consideration duly showing the said transactions was also filed before the Ld. A.O. Copy of the same is available on pages 4 to 6 of the paper book

1.5] It was explained by the appellant to the Ld. AO that he is a small trader and was doing trading business during the year under consideration at a very small scale. He was not maintaining day-to-day books of accounts. The appellant had filed a Copy of Capital Account and Statement of affairs for the year ended 31.03.2010

with Submission filed before A.O. wherein the amount of sum receivable from the Debtors of Rs. 6,57,923/- was also duly reflected in the Balance Sheet.

1.6] That to substantiate the details of Debtors the appellant has also duly filed a statement giving partywise details of Debtors along with copies of confirmation letters of all the said parties duly signed by them mentioning their postal address with copy of their aadhar card confirming the amount paid by them to the assessee. Copy of the same are available on pages 8 to 31 of the paper book.

1.7] Thus it was duly demonstrated by the appellant before the Ld. AO that amount of Cash of Rs. 6,57,923/- was received by him out of the recovery made from the Debtors and the said amount was deposited by him in the Bank Account.

1.8) It is submitted that appellant has filed the return of income by declaring Income from the Business u/s 44AD of the Act thus he was not required to maintain the regular books of account however the source of Cash deposited in the bank account was properly explained by him by way of all the documents filed before the A.O. and moreover these facts are clearly verifiable. Thus the appellant had fully explained the source of Cash deposited in his bank account of Rs. 6,7,923/- from recovery from Debtors and justified the genuineness of Cash Deposited by him.

1.9] However, while passing the assessment order it is respectfully submitted that the Ld. AO has not properly appreciated the facts of the case and the submission filed before him and has made an addition of amount of Rs. 6,57,923/- to the Total income purely on Conjectures and surmises.

1.10] The Ld. A.O. has not made any efforts to justify the addition made by him. He has neither issued any notice u/s 133(6) or nor has he issued any summons to the Debtors parties to justify his action for addition made by him u/s 68 of the Act in the Assessment Order. He has merely disbelieved the papers filed by the appellant and has ignored the details and explanation given by the Assessee and has added the entire amount of Rs. 657923/- received from the debtors which was deposited in the bank account to the total income of the assessee by treating the same as his Income from Undisclosed Sources u/s 68 of the Act.

1.11] The assessee has furnished the details of all the Debtors and they have confirmed that they have given the amount to the assessee towards outstanding amount. Thus the amount as deposited in the bank account through recovery made from Debtors cannot be regarded as Unexplained Income of the assessee u/s 68 of the Act. The Addition so made by the Ld. A.O. of Rs. 6,57,923/- was therefore factually as well as and legally not correct. You are therefore very kindly requested to delete the same in full.

02) Cash deposited in the Bank Account cannot be taxed under section 68 of the Act where the assessee was not maintaining books of account and has opted the presumptive taxation.

2.1] *It may further be noted that during the year under consideration the assessee was doing trading business and has filed his return of income u/s 44AD of the Income Tax Act.*

2.2] *That appellant was not maintaining day-to-day books of accounts and has opted for tax in presumptive tax scheme u/s 44AD. It may be noted that the scheme of presumptive taxation had been provided under the law in order to avoid long drawn process of assessment in case of small traders or in case of businesses where incomes were almost of static quantum of all businesses.*

2.3] *It is submitted that since the assessee was maintaining books of account and has opted the presumptive taxation, the amount of cash as deposited by the assessee could not be taxed under section 68 of the Act.*

For this preposition reliance is placed on the following decisions mentioned below.

>CIT v. Surinder Pal Anand [2010] 192 Taxman 264 (Punj. Har.),

>Nand Lal Popli v. Dy. CIT [2016] 71 taxmann.com 246/160 ITD 413 (Chd. Trib.)

2.4] *In view of the above it is submitted that the addition as made by the Ld. A.O. to the Total income u/s 68 of the Act of Rs. 6,57,923/- is wrong and uncalled for. The same requires to be deleted in full.*

03] *Addition u/s 68 of the Act cannot be made on account of cash deposited in bank account if an assessee is not liable to maintain the regular books of accounts.*

3.11. *That the appellant is a small trader and was doing trading business of Cotton Seed Oil Cake during the year under consideration. The appellant had not maintained day-to-day books of accounts and has filed his return of income u/s 44AD of the Income Tax Act.*

3.2] *That while passing the Re-assessment Order passed U/s 143(3)/147 of the Income Tax Act, the Ld. A.O. had added an amount of Rs. 6,57,923/ to the total income of the appellant u/s 68 of the act on account of cash deposited in the bank account by not accepting the explanation of the appellant that the said amount was deposited by him on account of recovery from the debtors.*

3.3] *It is submitted that Sec. 68 of the Act deals with unexplained cash credits. It provides that if any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, then the sum so credited may be charged to income-tax as the income of the assessee of that previous year.*

3.4.1) *Thus to invoke the provisions of Sec. 68, one of the prerequisite condition is that any sum must be found credited in the books of account of the assessee maintained for any previous year.*

3.4.2] *The appellant was a small trader and was not maintaining the regular books of accounts. He has also filed the Return of Income u/s 44AD of the Act.*

3.4.3] *That while passing the Assessment Order, the Ld. A.O. has made addition in respect of Amount of cash deposited in the Bank account and Bank Statements are not considered as the books of accounts hence it is submitted that on the peculiar facts of the case of the appellant, the provisions of Sec. 68 cannot be invoked.*

For this preposition reliance is placed on the decisions mentioned below.

> *Hon'ble Bombay High Court in the case of CIT v. Bhaichand N. Gandhi [1982] 11 Taxman 59/141 ITR 67 (Bom.)*

> *Hon'ble ITAT Mumbai Bench in the case of Mehul V. Vyas v. ITO [2017] 80 taxmann.com 311/164 ITD 296 (Mum. - Trib.)*

> *Hon'ble Ahmedabad Bench of ITAT In the case of Smt. Ramilaben B. Patel v. ITO [2018] 100 taxmann.com 325 (Ahd. - Trib.)*

> *Hon'ble Delhi Bench of ITAT in the case Amitabh Bansal v. ITO [2019] 102 taxmann.com 229 (Delhi Trib.)*

3.5]. *In following decisions it has been held that bank pass book or bank statement cannot be regarded as the books of accounts of the assessee for the purposes of section 68 of the Act:*

> *Rameshbhai Somabhai Patel vs ITO (ITA No- 1864/AHD/2014) dated 19.04.2018*

> *Smt. Nirmala Devi vs ITO (2017) 88 taxmann.com 870 (Jodhpur-Trib.)*

> *Smt. Bhagwati Devi v. ITO [1993] 47 ITD 58 (Cal.)*

> *ITO v. Kamal Kumar Mishra [2013] 33 taxmann.com 610 (Lubknow-Trib.)*

> *Smt. Ramilaben B Patel vs ITO [2018] 100 taxmann.com 325 (Ahmedabad Trib.)*

> *ITO vs. Om Prakash Sharma (ITA 2556/Del/2009)*

> *Babbar Bhatia vs. ITO (2018) 65 ITR (Trib.) 500 (Delhi)*

> *Satish Kumar v ITO (2019) 198 TTJ (Asr) 114*

3.6) *In view of the above it is submitted that the addition as made by the Ld. A.O. to the Total income of the assessee u/s 68 of the Act by considering the bank passbook/bank statement as books of accounts is wrong. The addition so made of Rs. 6,57,923/- u/s 68 of the Act therefore requires to be deleted in full.*

04] Addition in respect of Cash deposit in Bank Account in case details and nature of business were not forthcoming from record in case of Income offered under presumptive scheme had to be determined as per the said scheme

4.1] That as an alternative submission it is submitted that if the amount of Cash as deposited by the appellant is treated as sales proceeds from Khali business, then since the assessee had been a small trader and not maintaining regular books of accounts and has filed return of his income u/s 44AD, the total income may be determined considering the provisions of Sec. 44AD of the Act @ 8% of Total Cash as deposited in the bank account and not the entire amount of cash which has been deposited by the assessee.

4.2] That in case of the appellant, the total cash which was considered by the Ld. AO as unexplained amounted to Rs. 6,57,923/-. Thus at the most, his income as per the provisions of Sec. 44AD can be of Rs. 53633/ which is computed as under:-

<i>Particulars</i>	<i>Amount</i>
<i>Turnover considering the amount of Cash Deposited as Unexplained Sales</i>	6,57,923
<i>Total Income as per Provisions of Sec. 44AD (8% of Total Amount)</i>	52,633

4.3] For this preposition reliance is also placed on the decision of Hon'ble Gujrat High court in the case of CIT V/s Pradeep Shantilal Patel reported in 42 taxmann.com 2.

4.4] Thus considering the above decision of Hon'ble High Court, it is submitted that even otherwise at the most the amount of addition which can be made comes to Rs. 52633/- only by considering the amount Deposited in the bank account of Rs. 6,57,923/- as Sale Proceeds of the Assessee.”

7. Further, Ld. AR attempted to address the adverse observations made by AO in Para 4.2 of assessment order (re-produced above) as under:

- (i) Although the assessee is having statutory exemption u/s 44AA from maintaining books of account due to coverage under presumptive section 44AD, still the assessee compiled Balance-Sheet, Capital A/c

and List of Debtors as on 31.03.2010 (i.e. for the immediate preceding year 2009-10) and filed to AO during assessment-proceeding. Copies of same are available at Pages 7-8 of Paper-Book. The fact of filing of these documents is evident from the submission made by assessee to AO during assessment-proceeding [last sentence of assessee's reply re-produced in earlier Para 4(i) of this order]. Therefore, the AO's observation in Point 1 of Para 4.2 of assessment-order that the assessee did not file Balance-Sheet, etc. of year 2009-10, is factually not correct and seems to have been made due to oversight.

- (ii) That, there were 12 debtors as on 31.03.2010/01.04.2010 from whom the assessee made recoveries and deposited in bank a/c. The assessee filed a/c confirmations of all debtors, duly signed by assessee as well as respective debtors. The AO has wrongly rejected those a/c confirmations on the basis that they are on same pattern and that they appear to be signed by same person. The AO has overlooked the fact that the assessee carries business in a small town and he has to prepare a/c statements and get confirmations from debtors; the debtors will not do such exercise on their own. It is for this reason that the account confirmations bear a similar pattern, which is a natural consequence of the circumstances and cannot be held against the assessee. Furthermore, the assessee had also collected and filed Aadhaar cards of the respective debtors before AO, which constitutes

vital corroborative evidence sufficient to dispel any doubt. That apart, the a/c confirmations also include full addresses of respective debtors. The copies of a/c confirmations and aadhar cards of debtors filed to AO, are available at Pages 9-31 of Paper-Book. Therefore, the observation made by AO in Point 2 of Para 4.2 of assessment-order is a baseless suspicion, not sustainable.

- (iii) The assessee carries business of a small scale in a small town where the persons would not extend much co-operation. However, the assessee has collected, with best of his efforts, aadhar cards from debtors and filed with a/c confirmations. The a/c confirmations also contain complete addresses of respective debtors. In such circumstances, the inability of assessee to produce debtors physically before AO should not be made the sole basis for drawing an adverse inference as made by AO in Point 3 of Para 4.2 of assessment-order.
- (iv) That, the assessee is exempted from maintaining books of account and carries on business in a small town, therefore the AO cannot expect assessee to maintain bills of sales, etc. Therefore, the observation made in Point 4 of Para 4.2 of assessment-order is also not valid.

8. On the basis of above submissions, Ld. AR prayed for deletion of the addition made by AO. *Without prejudice*, Ld. AR submitted that the assessee has a single source of income, viz., the business of oil cake (khali) and has

no other income whatsoever. Further, all deposits and payments in assessee's bank account relate exclusively to the business of oil cake (khali) and the impugned cash deposits of Rs. 6,57,923/- are no different in character from other transactions in the said account. Accordingly, in order to put an end to the litigation, the Ld. AR submitted that the assessee would have no objection if this Bench were to apply the presumptive rate of 8% u/s 44AD on the amount of Rs. 6,57,923/-, treating the same as part of business turnover, and thereby uphold addition to the extent of Rs. 52,633/- [Para 4.2 to 4.4 of Written-Submission of Ld. AR].

9. Per contra, Ld. DR for the Revenue strongly supported the observations of the AO as upheld by CIT(A). He submitted that the addition made by the AO u/s 68 is fully justified in view of the failure of the assessee to furnish cogent and verifiable evidence regarding the recovery from debtors. He contended that mere production of a/c confirmations, which are on an identical pattern and are suspected to have been prepared by assessee himself, does not discharge the onus cast upon assessee u/s 68. He further submitted that the AO had given due opportunity to the assessee to produce the debtors for verification, which the assessee failed to avail of, and accordingly, the lower authorities rightly drew an adverse inference. He accordingly prayed that the addition be upheld.

10. We have carefully considered the rival submissions of both sides and have perused the orders of lower authorities as well as the material placed

on record, to which our attention was drawn during the course of hearing. The core issue arising for adjudication in present appeal is whether the AO was justified in making an addition of Rs. 6,57,923/- u/s 68 by rejecting the assessee's claim that the said amount represents recoveries made from debtors outstanding as on 31.03.2010, which were deposited in bank a/c during the previous year 2010-11 relevant to AY 2011-12. It is an admitted fact that the assessee is a small trader engaged in the business of cotton oil cake (khali) in a small town and that the assessee is exempted from maintaining books of account. The assessee has declared 8% presumptive income from business, which the AO has accepted. It is also an undisputed fact that the assessee had filed a Balance-Sheet, Capital Account, and List of Debtors as on 31.03.2010, along with a/c confirmations and aadhaar cards of 12 debtors, in support of his claim of recovery from debtors. The adverse observations made by Ld. AO while rejecting assessee's claim, are largely addressed by Ld. AR as already discussed by us in earlier Para 7 of this order; we do not wish to repeat same for the sake of brevity. Having carefully examined the facts of case and rival submissions of both sides, we are of the considered view that the addition of Rs. 6,57,923/- made by AO is not sustainable in present case. That apart, we find that the assessee is engaged in a small business of oil cake (khali) trading at a smaller place and there is no other source available to assessee on record except such business. Therefore, to close the litigation ensuing between assessee and revenue, we accept the agreeable proposal made by assessee to tax 8%

presumptive income on the sum of Rs. 6,57,923/-. Accordingly, we uphold addition to the extent of Rs. 52,633/- [8% of Rs. 6,57,923/-] and direct the AO to modify assessment-order so as to sustain addition to that extent and delete extra addition. Necessary consequential computation shall be done by AO. The assessee succeeds partly. We, however, make it clear that our adjudication in present case shall neither be agitated by assessee in any manner nor this adjudication shall be quoted or adopted as a precedent in other cases.

11. Resultantly, this appeal is partly allowed.

Order pronounced in open court on 17/04/2026

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 17/04/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Nilesh Jain
ITA No. 631/Ind/2025 - AY 2011-12

Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore