

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“RAJKOT” BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR  
& SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMEBR**

आयकर अपील सं./I.T.A. No. 564/Rjt/2015

(निर्धारण वर्ष / Assessment Year : 1995-96)

<b>Income Tax Officer</b> Ward-1, Gandhidham	<b>बनाम/</b> Vs.	<b>Late Shri Hirji Govind</b> <b>Hadia</b> L/h Shri Prakash Hirji Hadia Plot No.128, Ward-4/B, 101 Geeta Apartment – Adipur (K)
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAPP7414J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri Nihar Ranjan Samal, Sr. D.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Vimal Desai, A.R.

सुनवाई की तारीख / Date of Hearing	16/02/2022
घोषणा की तारीख /Date of Pronouncement	25/02/2022

**ORDER**

**PER MAHAVIR PRASAD, JM:**

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals), Jamnagar ('CIT(A)' in short) vide Appeal No. CIT(A)/Jam/0093/10-11/554, dated 31.08.2015 arising in the

assessment order dated 29.12.2010 passed by the Assessing Officer (AO) under s. 143(3) r.w.s. 254(1) of the Income Tax Act, 1961 (the Act) concerning AY. 1995-96.

2. The ground of appeal raised by Revenue as under:

*“The CIT(A) erred in law and on facts in deleting the addition of Rs.2,61,37,469/- made in the hands of legal representative of the assessee on a/c of compensation received.”*

3. The facts of the case are that this is second round before the ITAT and earlier Tribunal set aside the matter to the file of the AO directing to make a fresh assessment. Subsequently, in the *de novo* assessment proceedings, the AO repeated the addition and taxed the same again in the hands of the assessee by contending that assessee was bound to discharge the tax liability of the deceased. In this case, the compensation of Rs.2,61,37,467/- was given in favour of the father of the assessee Late Shri Hirji Govind Hadia. When this compensation was given, father of the assessee already died. During life time of the deceased father, the legal heir Shri Prakash Hirji Hadia used to stay with him. During the assessment proceedings by the learned AO, it is revealed that the legal heir Shri Prakash Hirji Hadia have operated two bank accounts with the bank at The Bhuj Mercantile Co.Op. Bank Ltd., Ahmedabad. The particulars of the bank account details as under:

**Legal Hier Prakash Hirji Hadia**

Sr. No.	Account No.	Nature of account	Name of the Jt. Holder	Account operated till date
01	50726	Savings	Single	Closed on 24.09.2003
02	54299	Savings	Single	Till the . date of 30.09.2010
03	54600	Savings	Govind J. Hadia	Closed on 19.10.2005

**The joint account was held by Legal hire Prakash Hirji Hadia with Shri Govind Jakhu Hadia of parner of M/s Govind jakhu & Company with account No.54600. The said account was operated from 20.09.2005 to 19.10.2005**

Since, the total compensation of Rs.2,61,37,469/- was received but no taxes have been paid. Shri Hirji Govind Hadia was expired on 26.10.1999. No detailed enquiries have been made by either by the AO or by the CIT(A). The CIT(A) mentioned in his order that he sought remand report from the learned AO but despite of the reminder no remand report was submitted to the learned CIT(A). Since, CIT(A)'s power is co-terminus with power of AO; he can ask for all details required to adjudicate the issue and to our mind, he ought to have conducted detailed enquiry at his level but same was not done in the case in our hand and same is amount to miscarriage of justice. Therefore, we set aside this matter back to the file of the CIT(A) to decide the matter afresh after making detailed enquiry within 180 days from the receipt of

this order as per law. We make it clear that assessee shall not seek unnecessary adjournment in the matter and shall cooperate with the learned CIT(A).

4. In the result, the appeal of the Revenue is allowed for statistical purposes.

**This Order pronounced in Open Court on 25/02/2022**

Sd/-  
(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER  
Ahmedabad: Dated 25/02/2022

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER

True Copy

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Deputy/Asstt. Registrar  
ITAT, Rajkot