

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD
[CONDUCTED THROUGH VIRTUAL AT AHMEDABAD]**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. No. 617/Ahd/2016
(Assessment Year: 2009-10)

Viraj Iraben Desai 24, Paramdham Society, Ambali- Bopal Road, Ahmedabad	Vs.	ITO Ward-1(1), Ahmedabad
[PAN No.AHQPD7443P]		
(Appellant)	..	(Respondent)

Assessee by :	Shri S. N. Divatia, Adv.
Revenue by :	Shri S. S. Shukla, DR

Date of Hearing	11.01.2022
Date of Pronouncement	25.03.2022

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 16.12.2015 passed by the Commissioner of Income Tax (Appeals)-1, Ahmedabad arising out of the order dated 26.12.2011 passed by the ITO, Ward-1(1), Ahmedabad under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2009-10.

2. Addition of Rs. 7 lacs as unexplained investment made by the Revenue is under challenge before us.

3. The assessee an individual filed its return of income on 23.03.2010 declaring total income at Rs. 2,35,000/-. The said income was assessed under Section 143(3) of the Act by the Ld. AO by making addition of Rs. 41,03,923/- on several count which was ultimately deleted by the Ld. CIT(A) except Rs. 7

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lakhs which was paid to the assessee by one Pankajsinh Vaghela residing in rural areas and deriving income from farming.

4. We have heard the rival submissions made by the respective parties and we have also perused the relevant materials available on record.

5. It appears on record that payment of Rs. 14,50,000/- was made to the assessee from three persons namely Pratapsang Hamsang Gadhvi, Pankajsinh Vaghela and Ghanshyamsinh Mod, all are residing in rural areas and deriving income from farming. It is relevant to mention that such payment was made to the assessee for investment purposes. In support of such payment the assessee duly submitted the confirmation, identity of the persons, necessary document like 7/12 extract and affidavits during the course of assessment proceeding and before the First Appellate Authority too in respect of all three persons. Though the Ld. CIT(A) had accepted the documents in respect of Ghanshyamsinh M Mod, Pankajsinh Vaghela and Pratapsang Hamsang Gadhvi the transaction made between the assessee and the Mr. Pankajsinh Vaghela to the tune of Rs. 7 lakhs has been disapproved on the count that nobody would give such a big sum in cash during a period of one and a half month.

We have also considered the 7/12 extract available at Page 187 of the Paper Book filed before us wherefrom it appears that the Shri Pankaj Vaghela is in possession of adequate agricultural land which was missed out to be taken into consideration by the Revenue. We note that similar sort of evidences have been already accepted in respect of other two parties by the Revenue.

6. The Ld. DR has also failed to bring our notice any contrary evidence in support of addition which could proof that the payment made by the

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Pankajsinh Vaghela is not genuine or the said person is not capable of paying the said amount to the assessee which could have been added to the total income of the assessee treating the said transaction as not real. Hence, in the absence of any contrary document we do not concur with the finding of the Revenue in support of the impugned addition. The addition is, thus, hereby deleted. Assessee's appeal is, therefore, allowed.

7. In the result, this appeal of assessee is allowed.

This Order pronounced in Open Court on	25/03/2022
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 25/03/2022

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad