

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "सी", अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, AHMEDABAD

सुश्री सुचित्राकम्बले, न्यायिक सदस्य एवं  
श्री मकरंद वसंत महादेवकर, लेखासदस्य के समक्ष।

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1565/Ahd/2024  
निर्धारण वर्ष / Assessment Year : 2018-19

Anand Education Trust Shree Panchtirth Vidhyalay Opp. Nilkanth Bungalows Naroda Kathwada Road Nava Naroda Ahmedabad - 382 330	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-1(Exemption) Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AAETA 4725 C		

<b>अपीलार्थी/</b> (Appellant)		<b>प्रत्यर्थी/</b> (Respondent)
Assessee by :		Shri Pritesh L. Shah, AR
Revenue by :		Shri Rignesh Das, Sr.DR

सुनवाई की तारीख /Date of Hearing : 02/04/2025  
घोषणा की तारीख /Date of Pronouncement: 02/04/2025

**आदेश/ORDER**

**PER MAKARAND V. MAHADEOKAR, AM:**

This appeal by the assessee is directed against the order dated 26.07.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"], under section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] for the Assessment Year (AY) 2018-19, confirming the assessment order passed under section 147 r.w.s. 144 and 144B of the Act dated 22.03.2023, wherein the Assessing Officer [hereinafter referred to as "AO"] made an

addition of Rs.1,37,90,000/- under section 69A of the Act, taxed under section 115BBE of the Act.

**Facts of the Case:**

2. The assessee is a charitable trust engaged in running Government-approved educational institutions - Shree Panchtirth Vidhyalaya (standards 1 to 8) and Shree Panchtirth Higher Secondary School (standards 9 to 12). Based on AIR information under the Insight Portal, it was observed that the assessee had deposited cash aggregating to Rs.1,37,90,000/- during Financial Year (FY) 2017-18. The assessee had not filed the return of income for the relevant year. The case was flagged as a non-filer in the NMS module, triggering issuance of notice under section 148 of the Act, after approval from the Pr.CIT. Subsequent to the reopening, the AO issued multiple statutory notices to the assessee seeking compliance and submission of supporting evidence. Further, a letter of non-compliance was issued on 28.01.2023 with a due date of 02.02.2023, but no compliance was made. A Show Cause Notice (SCN) under section 144B(1)(ix) of the Act was issued on 07.02.2023, granting time till 10.02.2023 to respond, followed by a final SCN issued on 15.02.2023, requiring reply by 20.02.2023. Despite multiple opportunities, no response was received from the assessee to any of these notices. The AO, in absence of any explanation or documentary evidence from the assessee, proposed an addition of Rs.1,37,90,000/- under section 69A of the Act, being unexplained money representing cash deposits in the following accounts:

- Rs. 60,10,000/- in ICICI Bank A/c No. 084405001155 (in name of Shree Panchtirth Higher Secondary School).
- Rs. 77,80,000/- in ICICI Bank A/c No. 084405001156 (in name of Shree Panchtirth Vidhyalaya).

2.1. The AO specifically requisitioned supporting evidence such as Bank statements, Attendance registers, Fee structure circulars issued to parents, Books of accounts (Income & Expenditure Account, Balance Sheet), Acknowledgment of return filing and explanation for non-filing. However, no response was received, and the assessment was completed *ex-parte* by treating the entire amount of cash deposit as unexplained money under section 69A and taxed at the applicable rate under section 115BBE of the Act. Penalty proceedings under section 271AAC and section 272A(1)(d) of the Act were also initiated.

3. Aggrieved by the reassessment order, the assessee filed appeal before the CIT(A). However, even during the appellate proceedings, the assessee did not file any written submissions or evidence, despite issuance of multiple notices. The CIT(A) dismissed the appeal relying on some judicial precedents. The CIT(A) held that the AO had passed a reasoned order, and in absence of any material placed on record during appeal, the additions stood confirmed. Aggrieved by the order of CIT(A), the assessee is in appeal before us with following solitary ground:

*The learned CIT(A) erred in law and on facts in confirming the addition made by AO in respect of cash deposited to the Bank amounting to Rs.1,37,90,000/-under section 69A of the Income Rs.2,25 Tax Act, 1961 read with Section 115BBE of the Income Tax Act, 1961, such addition is requested to be deleted.*

4. At the time of hearing, the learned Authorized Representative (AR) filed an application seeking adjournment of the matter, on the ground that the books of accounts and supporting documents were being compiled and translated into English for proper presentation. It was submitted that the accountant was in the process of entering the accounts into Tally Software, and the required documentation could be furnished only after a few days.

However, considering the fact that the matter had already been pending since long, and that both the orders of the lower authorities were passed *ex-parte* due to persistent non-compliance by the assessee, we found no justification to further prolong the proceedings. In the absence of any cogent or compelling reason, the application seeking adjournment was rejected and the matter was taken up for hearing on merits.

4.1. Upon being confronted with the repeated failure to appear and comply before the AO as well as the CIT(A), the learned AR submitted that the trustees were not conversant with procedural formalities and hence could not pursue the proceedings properly. He fairly admitted the lapse on the part of the assessee in the earlier stages but pleaded that the assessee now stands prepared to produce all supporting records and evidence. The AR also agreed to pay a cost of Rs.10,000/-, acknowledging the inconvenience and judicial time lost on account of such default.

5. The learned Departmental Representative (DR) did not object to restoring the matter back to the file of AO considering the nature of additions made in absence of compliance.

6. We have carefully considered the rival submissions and perused the materials on record. It is undisputed that the assessment order as well as the CIT(A)'s order both were passed *ex-parte*, in the absence of any response or compliance from the assessee despite multiple statutory notices and show cause opportunities. The default was consistent before both authorities. However, considering the nature of addition and the plea now advanced by the assessee that the cash deposits pertain to school fee collections from students of government-approved educational institutions, and given the

assurance of cooperation in the remand proceedings, we are of the view that one final opportunity deserves to be granted in the interest of substantial justice.

6.1. Accordingly, the impugned orders of both the AO and CIT(A) are hereby set aside, and the matter is restored to the file of the Assessing Officer for *de novo* assessment, after affording due and reasonable opportunity of being heard to the assessee. The assessee is directed to fully cooperate and file all relevant documents, including books of accounts, bank statements, school fee registers, and any other supporting evidence, failing which the AO shall be at liberty to proceed in accordance with law on the basis of available material.

6.2. The assessee shall, as agreed, deposit a cost of Rs.10,000/- to the credit of the Income Tax Department. The AO shall verify such payment before proceeding further in the case.

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

**Order pronounced in the Open Court on 2<sup>nd</sup> April, 2025 at Ahmedabad.**

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**(MAKARAND V. MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 02/04/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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 , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad