

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

I.T.A. No. 923/Ahd/2024
(Assessment Year: 2013-14)

Gulubhai Mahendrabhai Patel, Sunbiral Bunglows, Kochrab, Ellisbridge, Ahmedabad-380006	Vs.	Income Tax Officer, Ward-5(3)(1), Ahmedabad
[PAN No.BMEPP4542B]		
(Appellant)	..	(Respondent)

Assessee by :	Shri S. N. Divatia, A.R.
Revenue by :	Shri Prateek Sharma, Sr. DR

Date of Hearing	04.02.2025
Date of Pronouncement	23.04.2025

ORDER

The present appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (hereinafter referred to as “CIT(A)”), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi dated 17.04.2024 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2013-14.

2. The grounds of appeal raised by the assessee are as under:

“1. The order passed by U/s.250 passed on 17.04.2024 by NFAC, Delhi (for short “CIT(A)”) upholding the addition of Rs. 23,98,500/- made by A.O towards purchase of agricultural land as unexplained investment u/s 69 is wholly illegal, unlawful and against the principles of natural justice.

2. The ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the explanation furnished and documents like cash cook and confirming addition without speaking order or cogent reasons.

3. The ld. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.23,98,500/- made by A.O. towards purchase of agricultural land as unexplained investment u/s 69.

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4. *That the in the facts and circumstances of the ld. CIT(A) ought not to have upheld the addition of Rs.23,98,500/- made by A.O. towards purchase of agricultural land as unexplained investment u/s 69.*

5. *It is, therefore, prayed that the addition of Rs.23,98,500/- upheld by the CIT(A) may kindly be deleted.”*

3. At the outset itself it was pointed out that assessment in the present case was framed by the Assessing Officer (AO) in consequence to and in terms of the directions of the PCIT in his order passed u/s. 263 of the Act finding the original assessment order passed in the case of the assessee to be erroneous and causing prejudice to the Revenue. The Ld. PCIT had found the assessment order to be erroneous on three points:

- (1) the investment in property by the assessee jointly with his wife to the tune of Rs. 2.24 crores remaining unverified,
- (2) the genuineness of assessee's claim of selling gold ornaments in cash of Rs. 7.92 lakhs remaining unverified,&
- (3) the source of investment in agricultural land at Bavlu, village- Taluka-Kadi, Mehsana, amounting to Rs. 23,98,500/- remaining unverified.

In the assessment order framed in the set-aside proceedings, it was pointed out, the AO made no addition on account of first two issues noted by the Ld. PCIT , while he made addition to the income of the assessee on the third issue , vis-à-vis source of investment in agricultural land to the tune of Rs. 23.98 lakhs remaining unexplained ,which was confirmed in appeal by the Ld. CIT(A).

4. Heard both the parties.

5. Perusal of the orders of the authorities below reveal that they have found the source of investment in land remaining unexplained in the absence of any

documentary evidences submitted by the assessee in support of his explanation of the source of investment.

6. I have noted that the assessee's explanation of the source of investment was that it was sourced out of his income from his business of contractor and his agricultural income. During the course of hearing before us, Ld. Counsel for the assessee pointed out that this fact was pointed out both to the AO and the Ld. CIT(A), duly substantiated with the copy of agreement for purchase of land, copy of agricultural land records owned by the assessee, copy of cash book and its summary reflecting source of investment and also the details of persons from whom the contractual income was received. In this regard, our attention was drawn to the letter submitted by the assessee to the AO dated 14.12.2018 placed before us at Paper Book page No. 37 pointing out the above as under:

“Further in the Show cause notice assessee has purchased agriculture tend situated at Bavla, Ta Kadi Dist Mehsana of Rs. 23,98,500/- on 11/06/2012 and the same was paid in cash for an amount of Rs. 23,47,500/-. Assessee has purchased an agricultural land at Village Bavlu, Tal Kadi of Mehsana district for a consideration of Rs.23,98,500/- on 14.06.2012. During the assessment proceedings the assessee has already submitted the copy of agreement along with the details of source of investment made in the said Land. The assessee has also submitted the name and addresses of the persons from whom he has received the labour income during the FY 2012-13. The assessee has cash contract income of Rs.67,86,720/- during the above specified assessment year. The assessee has used these funds to purchase above agricultural land. I have attached list of parties from whom labour income received along with their address vide Annexure - 2.”

7. It was further pointed out that even before the Id. CIT(A) this fact had been pointed out vide letter dated 17.04.2019 at Paper Book page No. 12 explaining the above at Point No. 4 to 8 as under:

“4. I paid Rs.2398500/- for acquisition of this land as under:

By cash	Rs.2347500
By cheques	Rs.51000 (17000*3)

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5. *Cash was available with me on account of my business receipts which was offered for tax u/s.44AD. Over and above my business income I disclosed Rs.1100908/- as agricultural income. Thus total cash available with me as on 10/06/12 was Rs292902/-*

6. *Thus there was enough cash available with me for acquisition of agricultural land. The source was from my business receipt and agricultural income etc.*

7. *Necessary documents with regard to the above submission are given as mentioned here under:*

- 7.1 *Copy of return of income*
- 7.2 *Copy of land account*
- 7.3 *Copy of cash book and bank book*

8. *As the source of acquisition is explained, the addition is required to be deleted.”*

8. My attention was drawn to the cash book summary explaining the source of investment in land from contractual income and agricultural income at Paper Book page No. 14 and also to the copy of the cash book placed at Paper Book page No. 16 to 29 containing the relevant entry of investment made in the impugned land out of cash available on 11.06.2012. The source of cash available being from labour contractual income and agricultural income recorded on earlier days in the cash book. Besides the Ld. Counsel for the assessee pointed out that it is fact on record that the assessee had earned contractual income, having returned 8% of total contractual receipts of Rs. 67,86,720/- to tax during the impugned year and reflected as such in the computation of income filed by the assessee. It was also pointed out from the same computation of income that the assessee had returned agricultural income of Rs.11,00,908/-.

9. Having noted the above facts, I find that the assessee had substantiated the source of investment in land of Rs. 23.98 lacs as being out of his contractual income of Rs.67.86 lacs which was duly reflected in the return of income filed

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by the assessee for the impugned year as also out of agricultural income of Rs.11.00 lacs, which was also disclosed in the return of income filed. These facts, of the assessee having earned income from contracts and agricultural income are admitted facts accepted by the Department. With an admitted source of income Of Rs.78 lacs approx., the assessee I hold has furnished a plausible explanation for the source of investment in land of Rs.23.98 lacs.

10. The Ld. CIT(A), I have noted, has treated the source of investment as remaining unexplained, pointing out deficiencies in the explanation at Page 8 of his order as under:

“I have gone through all the submissions and documents submitted by the appellant during the course of appellate proceedings. The appellant has not submitted the copy of agreement, details of source of investment made in the above land, names of persons from whom money was taken, ITRs of previous years. The appellant has not given any supporting documents regarding the source of investment made in the said land and hence contention of the appellant is not tenable. The appellant failed to explain each and every transaction and to establish that it is a genuine transaction which is recorded in the books/bank account.”

11. The Ld. CIT(A) has noted that the assessee has not submitted copy of agreement, details of source of investment, names of persons from whom money was taken, ITRs of previous years.

12. All the above I find are contrary to the facts on record. The assessee did submit the copy of agreement of land, he did also submit the source of investment out of contractual income and agricultural income, which incomes were duly reflected in the return of income filed by the assessee. The assessee had also submitted the name of persons from whom he had earned the contractual income. Therefore, the basis with the Id. CIT(A) for treating the source of investment in land as unexplained is contrary to the facts on record.

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The ld. CIT(A), I have noted, has treated the impugned investment in land as remaining unexplained based on incorrect factual findings.

13. With the assessee having been found by me to have given a reasonable explanation of source of investment in land, duly corroborated with evidences and admitted facts on record of disclosed income of the assessee being more than sufficient for making the investment and the Ld.CIT(A) to have rejected the said explanation noting incorrect facts of the assessee having failed to substantiate his explanation, I hold that the addition confirmed by the ld. CIT(A) is not sustainable on facts itself. The addition, therefore, made is directed to be deleted.

14. In the result, the appeal of the assessee is allowed.

This Order pronounced in Open Court on 23/04/2025

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 23/04/2025

TANMAY, Sr. PS

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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