

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**BEFORE: DR. BRR KUMAR, VICE PRESIDENT
And SHRI T. R SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA No.241/Ahd/2025
Assessment Year 2010-11**

Kaushik D Bhagat (Patel), 13, Jan Kalyan Society, Bodeli, Vadodara-391135. PAN: ATFPB9780J (Appellant)	Vs	The Income Tax Officer, Ward-3(1)(4), Vadodara. (Respondent)
---	----	---

**Assessee Represented: Shri Parin S Shah, AR.
Revenue Represented: Shri S K Agal, Sr.D.R.**

Date of hearing : 23.04.2025
Date of pronouncement : 25.04.2025

आदेश/ORDER

PER : DR. BRR KUMAR, VICE PRESIDENT:

This appeal is filed by the Assessee as against the appellate order dated 06.12.2024 passed by the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi, relating to the Assessment Year 2010-11.

2. The assessee has raised the following grounds of appeal:

1. *The order passed by the lower authorities is bad in law and required to be quashed.*
2. *The reopening of assessment u/s.148 of the Act is bad in law and required to be quashed.*
3. *Ld.AO erred in law and on facts in passing assessment order despite of fact that he does not have jurisdiction to assess the assessee and accordingly, the order passed by AO is required to be quashed.*
4. *Ld.NFAC erred in law and on facts in confirming Rs.19,52,314/- by invoking section 69A of the Act.*
5. *Ld.NFAC ought to have considered submission of the appellant and ought to have deleted the disallowance.*
6. *Appellant prays that appeal may be set aside to file of AO for fresh adjudication.*
7. *Charging of Interest u/s. 234A, 234B, 234C & 234D are unjustified.*
8. *Initiation of penalty proceedings u/s.271(1)@ is unjustified.*

3. The facts of the case are that that Assessee is an individual who is residing in USA and had being a farmer used to do farming work in India. Assessee case for the year under assessment had been selected for scrutiny u/s. 148 r.w.s. 143 of the Act. Notice towards selection of the case and also notices u /s. 142(1) of the Act had been sent to his registered address in India, however since he was out of India the same were taken by his tenant, who being unaware of the seriousness of the matter kept the notices and later after receiving such notices repeatedly informed the assessee who asked him to contact his consultant. It was at that time when the assessee came to know about the re opening of his case for the reason being deposition of cash to the tune of Rs. 14.24 lacs in his bank account. Later upon being back in India when the assessee

contacted the AO regarding the said notices and explained to him that he being a farmer had earned agricultural income during the year under consideration and the receipts from such agricultural activities had been deposited by him in his bank account. It was then the AO asked assessee to furnish the bills of agricultural income and also of the agricultural expenditure incurred to earn the said income, for which the assessee requested certain time. In the mean time assessee had been diagnosed with dengue and had been hospitalized in the hospital for a week and upon his discharge his mother's health started deteriorating (which was the main purpose for his visit to India) and due to such circumstances the assessee was not able to revert back to the AO. Hence the AO passed the order u/s. 144 of the Act by adding the entire deposits in his bank account as undisclosed income.

4. Aggrieved assessee filed an appeal before the Ld.CIT(A), who dismissed the appeal of the assessee by observing as follows:

“...3.1. In this regard, the assessment order dt. 23.11.2017 was carefully perused. In the assessment order, the AO has stated in para 4 that since there was no reply from the appellant explaining the cash deposit of Rs. 14,24,962/-, he proceeded to complete the assessment u/s 144 of the Act. The AO has considered the cash deposit of Rs. 14,24,962/- plus other credit entries of Rs. 5,27,352/- in the bank account and added it to the total income of the appellant as unexplained money u/s 69A of the Act.

3.2. During the appellate proceedings, a remand report was sought from the AO based on the submission made by the appellant. The AO vide letter 05.11.2024 DIN & Letter No: ITBA/APL/F/24/2024-25/1070122176(1) had submitted the remand report stating that firstly that the additional evidence should not be entertained. Secondly, the AO has stated in para 3.3. of his report that the appellant provided copies of bank statement, cash book, bank book,

purchase invoices, bills & vouchers. The appellant was further requested by the AO to provide details of credit entries in bank accounts during the remand proceedings. The AO further states that the appellant did not submit 7/12 & 8A and crop details with respect to the relevant AY i.e. 2010-11, and hence, the crops claimed in bills & vouchers as per land records were not verifiable/The AO has stated that as far as credit entries in bank account were concerned the appellant has mentioned details of credit entries from individual parties but failed to submit corroborative evidence as confirmation for e.g. PAN, address & contra bank account statements of parties as mentioned in his letter. It appears that during the assessment proceedings, the appellant did not submit any details despite ample opportunities and even during the remand proceedings he did not come forward to explain the details with cogent proof to the AO. The statement of facts submitted by the appellant states that the appellant resides in USA and was a farmer in the past

3.3. From the above, it appears that the appellant has again failed to satisfactorily explain the cash deposits made by him during the relevant AY 2010-11. Therefore, I find no reason to interfere with the order of the AO. In light of this Ground No. 1 of the appellant stands dismissed...”

5. The Ld.Counsel for the assessee pleaded that due to some unforeseen situation assessee could not explain the cash deposit made by him before the Revenue authorities. Before us the Ld. Counsel for the assessee prayed that, given an opportunity, all the details/clarification/explanation would be provided to the revenue authorities. Having gone through the fact, we hold that the no prejudice will be caused to the revenue if the Assessing Officer is allowed to examine the details/explanation submitted by the assessee with regard to the cash credit. Hence, the matter is remanded to the Assessing Officer for conducting assessment *de-novo*. The assessee shall

comply with the notices issued by the authorities without seeking any unnecessary adjournments.

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

Order pronounced in the open court on 25.04.2025

Sd/-

**(T.R SENTHIL KUMAR)
JUDICIAL MEMBER**

Sd/-

**(DR.BRR KUMAR)
VICE PRESIDENT**

Ahmedabad : Dated 25.04.2025

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

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

TRUE COPY

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद