

IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member**

**ITA No: 645/SRT/2024
Assessment Year: 2017-18**

Bharatsinh Kishorsinh Medhat At- Saniya Hemad, Rajput Faliyu, Choryasi Dist-Surat Gujarat-395006 PAN: BCAPM9437N (Appellant)	Vs	The ACIT Circle-3(2), Surat (Respondent)
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**Assessee Represented: Shri Dhruvang Diwan, CA
Revenue Represented: Ms. Neerja Sharma, Sr.D.R.**

Date of hearing : 08-05-2025
Date of pronouncement : 26-05-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 31.03.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2017-18.

2. Brief facts of the case is that the assessee is a salaried person and employee of Surat Municipal Corporation who has filed his Return of Income for the Asst. Year 2017-18 on 29-12-2017 declaring total income of Rs.4,44,250/-. The return was taken for scrutiny assessment on account of cash deposit during the year and investment made in immovable property. The Assessing Officer after giving due opportunity of hearing to the assessee made addition on account of Long Term Capital Gain of Rs. 58,10,493/- and unaccounted cash deposit of Rs.72,85,000/- and determined the total income as Rs.1,35,95,740/- and demanded tax thereon.

3. Aggrieved against the same, the assessee filed an appeal before Ld. CIT(A). The Appellate Commissioner confirmed both the additions, since the assessee failed to produce substantial details in support of its claim.

4. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

- 1) The Id CIT(A) has erred in law and on facts in ignoring the substituted grounds of appeal filed by the Appellant and in deciding the appeal on the basis of original grounds of appeal filed by the Appellant.
- 2) The Id. CIT(A) has erred in law and on facts in confirming the addition of Rs. 58,10,493 on the ground of understatement of capital gain on sale of land
- 3) The Id CIT(A) has erred in law and on facts in not adjudicating the substituted ground no 2 pertaining to the prayer to adopt the average rate of Rs. 137 per Sq Meter as on 01/04/1981 as cost of acquisition of land.
- 4) The Id. CIT(A) has erred in law and on facts in confirming the action of the Id. AO of not allowing as expenses Rs. 50,00,000/- being the amount paid to two sisters of the Appellant.

- 5) The Id. CIT(A) has erred in law and on facts in confirming the action of the Id. AO of making an addition of Rs 72,85,000/- under section 69A of the Act.
 - 6) The Id CIT(A) has erred in law and on facts in not adjudicating the substituted ground no. 5 pertaining to the addition of Rs 72,85,000/- made by the id. AO u/s 69A of the Act without issuing show cause notice and the same being in defiance of principles of natural justice
 - 7) The Id CIT(A) has erred in law and on facts in not adjudicating the substituted ground no 6 pertaining to the invalid action of the Id AO of making an addition of Rs 72,85,000/- u/s 69A of the Act
 - 8) The Id CIT(A) has erred in law and on facts in confirming the action of the Id AO of invoking the provisions of section 115BBE of the Act in relation to the addition of Rs. 72,85,000/-
 - 9) Each ground of appeal is without prejudice to the other ground/grounds of appeal
 - 10) The Appellant craves leave to add, amend, alter, modify, substitute, delete change, or vary all or any of the ground or grounds of Appeal.
5. We have heard the rival submissions and perused the materials available on record. Regarding the addition made on account of Long Term Capital Gain, the assessee produced explanation for Rs. 50,00,000/- were paid to her two sisters for transfer of the above land and also produced the “Addendum” Report of DVO. However the same were not considered by the Ld. CIT(A).
- 5.1. Similarly on account of cash deposits, the assessee also filed detailed written submissions on account of cash deposits which is explained as sale consideration of Rs. 1,21,21,000/- received on sale of land at Village Sanya Hemad, Surat which was deposited in The Surat District Co-op. Bank Ltd. out of which Rs. 75,00,000/- was withdrawn by him and Rs. 72,85,000/- was deposited in Dena

Bank, Surat. However Ld. CIT(A) confirmed the additions without looking into the details.

6. We have considered the above submissions and therefore in the interest of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Ld. CIT(A) with a direction to give one more opportunity of hearing to the assessee and decide the appeal on merits by passing a speaking order. Needless to say, the assessee should file all relevant materials and details before Ld. CIT(A).

7. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 26 -05-2025

Sd/-
(BIJAYANANDA PRUETH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 26/05/2025

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.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
सूरत