

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

BEFORE Ms SUCHITRA KAMBLE, JUDICIAL MEMBER  
And  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos. 260-261/AHD/2025  
निर्धारण वर्ष/Asstt. Years: 2012-13 & 2014-15

Jagdishchandra Navnitlal Sheth, At & Post: Arad, Tal. Halol, Dist. Panchmahal, Panchmahal-389350.  PAN: AHZPS6305C	बनामVs	The Income Tax Officer, Ward-3(1)(2), Vadodara.
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(अपीलार्थी / <b>Appellant</b> )		(प्रत्यर्थी / <b>Respondent</b> )
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Assessee by :	Shri M J Shah, with Shri Rushin Patel, ARs
Revenue by :	Shri Hargovind Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 01/07/2025  
घोषणा की तारीख/Date of Pronouncement: 10/07/2025

आदेश/ORDER

PER NARENDRA PRASAD SINHA, AM:

These two appeal are filed by the assessee against the separate orders passed by the Additional/Joint Commissioner of Income Tax(Appeals-1) Chandigarh, (in short "the CIT(A)") both dated 26.11.2024 for the Assessment Years 2012-13 & 2014-15 respectively. The facts involved in these two appeals are identical, hence both the matters were heard together

and are being disposed of vide this common order for the sake of convenience. We will take **ITA No.260/Ahd/2025 for AY 2012-13** as lead case for the purpose of adjudication.

ITA No.260/Ahd/2025 for AY 2012-13

2. The brief facts of the case are that assessee had filed his original return of income for AY 2012-13 on 28.09.2012, declaring total income of Rs.3,68,376/-. The AO had received an information that the assessee had paid unaccounted cash of Rs.12,00,000/- to one BRG Infrastructure Ltd as on-money towards purchase of a property. As per the information, cash of Rs.4,00,000/- each was paid in three Financial Years i.e F.Y 2011-12, 2012-13 and 2013-14. Based on this information the case was re-opened u/s.147 of the Act, after recording proper reason and a notice u/s.148 of the Act was issued on 18.11.2019, in response to which the assessee had filed return of income declaring income of Rs.4,73,960/-. In the course of assessment, the assessee had denied payment of any on-money towards acquisition of the property. However, the AO was not convinced with the explanation of the assessee as the bank account of the assessee revealed certain cash deposits, the source of which was not explained. The AO had completed the assessment u/s.143(3) r.w.s 147 of the Act on 12.12.2019 at total income of Rs.8,75,720/-, making an addition of Rs.4,00,000/- on account of on-money payment.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the First Appellate Authority which was decided vide the impugned order and the appeal of the assessee was dismissed.

4. Now the assessee is in second appeal before us. The following grounds have been taken in this appeal:

1. *The Ld. CIT(A) has erred in law and on facts of the case, in dismissing the appeal for alleged non-prosecution and without providing proper opportunity of hearing.*
2. *Notice issued u/s.148 and the consequential reassessment order passed u/s.143(3) r.w.s. 147 are bad in law.*
3. *The Id. CIT(A) has erred in law and on facts of the case, in sustaining addition of Rs.4,00,000/- u/s.68 on account of alleged on-money payment.*
4. *The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.*

5. Shri M J Shah, Ld. AR appearing for the assessee submitted that the Ld. CIT(A) had dismissed the appeal on account of non-prosecution for the reason that no compliance could be made before him. He explained that that all the notices of Ld. CIT(A) were sent on the email which was not accessed by the assessee. In this regard, the Ld. AR had drawn our attention to Form No.35 wherein the assessee had exercised the option that no notice/communication should be sent on the email. The Ld. AR requested that the assessee may be allowed another opportunity to represent his case and for this purpose the matter may be set aside to the file of Ld. CIT(A).

6. Per Contra Shri Hargovind Singh, Ld. Sr. DR had no objection if the matter was set-aside to the file of Ld. CIT(A).

7. We have considered the request of the assessee. It is found that the email address mentioned in Form No.35 was [acepv4288p@gamil.com](mailto:acepv4288p@gamil.com) and the assessee had given his option that no notice/communication may be

sent on the email. Under the circumstances, the disposal of the appeal by the Ld. CIT(A) by sending notice on the email and without sending any physical notice to the assessee, cannot be held as correct. **When the Department had given an option to the assessee regarding mode of receipt of notice and the assessee has opted not to receive any notice/communication on email, in such case, a physical notice was required to be served upon the assessee.** Though the Ld. CIT(A) also adjudicated the matter on merits, his order was without considering any explanations/details/submissions on the part of the assessee. In the interest of justice, we therefore, deem it proper to **set-aside the matter to the file of Ld. CIT(A) with a direction to allow one more opportunity to the assessee to represent his case by serving a physical notice along with the notice sent through email.** At the same time, the assessee is directed to keep on checking his email account and give response to the notice received through email/physical notice. In the result, the appeal of the assessee is allowed for statistical purposes.

ITA No.261/Ahd/2025 for AY 2014-15

8. The facts involved in this appeal are identical to ITA No.260/Ahd/2025 for A.Y 2012-13, which we have decided in favour of the assessee for statistical purposes in the preceding paragraphs. Therefore, the decision as taken in ITA No.260/Ahd/2025 for AY 2012-13 will apply mutatis mutandis in ITA No.261/Ahd/2025 for AY 2014-15 as well. Hence, this appeal of the assessee is also allowed for statistical purposes.

9. In the result, both the appeals of the assessee are allowed for statistical purposes.

**Order pronounced in the Open Court on 10<sup>th</sup> July, 2025 at Ahmedabad.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

**Sd/-  
(NARENDRA PRASAD SINHA)  
ACCOUNTANT MEMBER**

(True Copy)

अहमदाबाद/Ahmedabad, दिनांक/Dated 10/07/2025

*Manish, 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)-(NFAC)
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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