



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, AM.**

**&**

**DINESH MOHAN SINHA, JM**

**आयकर अपील सं./ITA No.935/RJT/2024**

**निर्धारण वर्ष / Assessment Year: (2015-16)**

**(Hybrid Hearing)**

Income-tax Officer Ward-1, Aayakar Vibhag, J K Chamber, NH 8A, At- Lalpar, Morbi - 363642	<b>Vs.</b>	Pravinbhai Shivilalbhai Ghodasara Raj Bank Street, Kalika Plot, Morbi - 363642
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ASKPG8977A</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

**CO No.12/RJT/2025**

**(a/o ITA No.935/RJT/2024)**

**Assessment Year: (2015-16)**

Pravinbhai Shivilalbhai Ghodasara Raj Bank Street, Kalika Plot, Morbi - 363642	<b>Vs.</b>	Income-tax Officer Ward-1, Aayakar Vibhag, J K Chamber, NH 8A, At- Lalpar, Morbi - 363642
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ASKPG8977A</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

Assessee by : Shri Hardik Vora, Ld. AR

Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. (DR)

**Date of Hearing : 18/ 06/2025**

**Date of Pronouncement : 15/ 07/2025**



## आदेश / ORDER

**Per Dr. Arjunlal Saini AM:**

Captioned appeal filed by the Revenue and Cross Objection filed by the assessee, pertaining to Assessment Year 2015-16, are directed against the order passed by the Learned Commissioner of Income Tax (Appeal), vide order dated 23/10/2024, which in turn arise out of an order passed by the Assessing Officer, dated, 10/03/2022, u/s 147 r.w.s. 144 read with section 144B of the Income Tax Act, 1961.

**2. Grounds of appeal raised by the Revenue, in ITA No.935/RJT/2024 are as follows:-**

*(i) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 2,46,26,000/- mode on account of unexplained investment within the meaning of section 69 of the Act as no explanation regarding cash deposit was submitted.*

*(ii) On the facts and circumstances of the case and in law, the Ld. CIT(A) ought to have considered that the assessee had not furnished any documentary evidences to prove the identity, genuineness and creditworthiness of the principal beneficiaries on behalf of whom the cash was deposited into his account as claimed by him.*

*(iii) On the facts and circumstances of the case and in law, the Ld. CIT(A) ought to have considered that the assessee failed to prove the source of huge cash deposits done by him during the year under consideration.*

*(iv) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the assessee was working as money transfer agent and earning the commission for the same in absence of any supporting documentary evidences.*

*(v) On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that assessing officer did not bring any evidence to show that the cash deposited constituted assessee's income when there is no such onus on Revenue and being a deeming section, Sec.69 casts the onus on the assessee to show that the said sum was not his income, which was not discharged in this case*

*(vi) Any other ground that the Revenue may rise before or during the proceedings before the Hon'ble ITAT.*

*(vii) It, is therefore, prayed that the order of the CIT(A) be set aside and that of the assessing officer be restored to the above extent.*



### **3. Additional ground raised by the revenue are as follows:**

*(1) That on the facts and in the circumstances of the case, the Learned Commissioner of Income-Tax (Appeals) has grossly erred in law and in fact in accepting the assessee's plea that he was engaged in the business of angadiya/shroff, without any documentary substantiation such as valid registration under the Gujarat Shops and Establishments Act, 1948, and thereby has erroneously proceeded on a mere hypothesis unsupported by any statutory or regulatory evidence.*

*(2) That the Learned CIT(A) has committed a grave error in law in admitting and relying upon the ledger statement pertaining to a defunct Multi-State Credit Cooperative Society account, without ensuring compliance with the mandatory requirements of certification under the Bankers' Books Evidence Act, 1891, thereby vitiating the appellate proceedings by relying on inherently inadmissible and unauthenticated material.*

*(3) That the Learned CIT(A) has exceeded the scope of his discretion under Rule 46A of the Income Tax Rule, 1962, by admitting additional evidence at the appellate stage without recording any satisfaction regarding the existence of the circumstances contemplated under sub-rule (1) of Rule 46A, and without affording the Assessing Officer an opportunity to rebut such evidence, thus violating the mandatory procedural safeguards and principles of natural Justice.*

### **4. The assessee has raised the following grounds of appeal, in CO No.12/RJT/2025:**

*(i) On the facts and circumstances of the case as well as law on the subject, the Ld. CIT (Appeals) has erred in directing the A.O. solely on the basis of information received from a third party.*

*(ii) On the facts and circumstances of the case as well as law on the subject, the Ld. CIT (Appeals) has erred in directing the A.O. to make an adhoc addition of five percent as commission without any basis.*

*(iii) On the facts and circumstances of the case as well as law on the subject, the Ld. CIT (Appeals) has erred in directing the A.O. to the extent of making addition on the basis of information found during the search and seizure proceedings in the case of a third party without considering that it is not the proof of actual transaction taken place during the year.*

*(iv) Assessee craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

**5. Facts of the case which can be stated quite shortly are as follows:** The assessee is an individual and no return of income was filed by the assessee for the assessment year (AY) 2015-16. The Jurisdictional Assessing Officer [ITO, Ward



3(1)(1), Rajkot] had received information from ACIT, Central Circle 4(4), Range-4, Mumbai that a search & Seizure action u/s 132 of the Income Tax Act, 1961 was carried out in case of M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. (in short Society/SRMSCS) (PAN: AADAS7782D) on 26.05.2017 and during the search, it was found that huge money was deposited in the accounts maintained in the society and during the course of assessment proceedings, the society could not explain the source for the same. Further, details of assessee holding accounts in the said society were also communicated, wherein the name of the assessee was figured in. It was further informed that majority of the deposits made were in cash. Since the assessee had not filed any return of income as per section 139(1) of the Act, therefore assessing officer believed that the cash deposits made by the assessee in M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd, to the tune of Rs.2,46,26,000/-, had escaped assessment u/s 147 of I.T. Act, therefore, assessment of the assessee was reopened u/s 148 of the Act. Therefore, assessing officer issued notice u/s 142(1) of the Act, along with questionnaire, on 28.12.2021. Vide the said notice, the assessee was asked to furnish the following details:

- “1. Vide Notice u/s 148 dated 31-03-2021, you were requested to furnish return of income for the Asst.year2015-16. But you did not furnish return of income. Please furnish the return of income for the A.Y, 2015-16.*
- 2. Please explain the brief note about your business activities carried out during the year under consideration.*
- 3. Please furnish computation of total income statement, P&L account, Balance sheet along with enclosures.*
- 4. As per the information available with the Department, it is noticed that the assessee has entered into transaction with M/s. Shri Renuka Mata, Multi State Urban Cooperative Credit Society Ltd., and has made a total transaction of Rs.2,46,26,000.*
- 5. In view of this, please furnish ledger extracts of the above said transactions and nature and details of transaction with M/s Shri Renuka Mata, Multi State Urban Cooperative Credit Society Ltd., and sources for investment of the said transaction with documentary evidences.”*



4. In response to the above notice, the assessee has not submitted any reply before the assessing officer. During the course of assessment proceedings, letter was sent to the assessing officer on 04.01.2022, requesting him to upload the basis, with supporting documents, for reopening the assessment, copies of bank account statements, copies of statements recorded if any, copies of ledger accounts, details of investments/financial transactions/cash deposits with M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Limited. The J.A.O did not responded to the letter issued. However, from a perusal of the letter of ACIT CC-4(4), MUMBAI in No.ACIT.CC- 4(4)/Mumbai/Dissemination/SRMUCS/2020-21 dated 12.03.2021, vide which the information pertaining to the assessee was communicated to the assessing officer and also case related information detail, uploaded in the Insight Module, the assessing officer noticed that assessee had, indeed, made cash deposit of Rs.2,46,26,000/- in his account maintained in M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd, during the financial year (F.Y.) 2014-15. During the course of assessment proceedings, the assessee did not submit reply before the assessing officer therefore, assessing officer, made addition of Rs.2,46,26,000/-, u/s 69 of Act.

5. Aggrieved by the order of the learned CIT(A), the assessee, carried the matter in appeal before the learner CIT(A), who has partly deleted the addition made by the assessing officer, therefore, the revenue is in appeal before us and assessee also is in cross objection before us, in respect of addition sustained by the learned CIT(A).

6. Learned DR for the Revenue submitted that Assessing officer made addition in respect of cash deposit in M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd, during the financial year (F.Y.) 2014-15, however, simultaneously there are cash withdrawal by the assessee, also. Since the assessee



could not explain the source of the cash deposit in the said Co- operative society, therefore, assessing officer has rightly made the addition in the hands of the assessee. Therefore, learned DR for the Revenue contended that addition made by the assessing officer should be sustained.

7. About additional ground raised by the revenue, learned DR for the Revenue submitted that assessee was engaged in the business of shroff, without any documentary substantiation such as valid registration under the Gujarat Shops and Establishments Act, 1948. Besides, the ledger statement pertaining to Multi-State Credit Cooperative Society account, should not be used by the learned CIT(A) as an evidence. In addition to this, Learned CIT(A) has admitted certain additional evidence, hence violated the provisions of sub-rule (1) of Rule 46A of the Income Tax Rules, hence, assessee's appeal may be remitted back to the file of Ld. CIT(A) for fresh adjudication.

8. On the other hand, learned Counsel for the assessee vehemently argued that assessee is an individual doing agricultural activity at Rajkot, Gujrat and regularly assessed to tax. For the year under consideration, the assessee has not filed his Income tax Return as the total Income chargeable to tax was below the threshold limit of Income Tax filing, and the assessee earned commission income only which was below the maximum amount, which is not chargeable to tax, hence assessee did not file the return of income. It was further submitted that the assessee's case was selected for scrutiny assessment by issuing a notice under section 142(1) of the Act, dated 16-11-2021 and the learned assessing officer had issued notices under section 142(1) of the Act, seeking various details/ documents during the course of assessment proceedings. In response to the same, the assessee has not furnished any details due to the fact that income of the assessee was below the maximum amount which is not chargeable to tax, and also the



assessee was unaware of any such income tax proceedings going on in his case. All such cash deposit transaction is managed and operated by the Co-operative Society, and they have withdrawn cash from the bank account and deposited back in the bank account of the assessee and these are done by the society not by assessee, hence, the assessee is not an angadia, as alleged by the learned DR for the revenue, therefore, the assessee need not to take, registration under the Gujarat Shops and Establishments Act, 1948, as alleged by the learned DR for the revenue, in the additional ground raised by the revenue. The Id Counsel further stated that the assessee was not the real beneficiary of the amounts which were being deposited and later withdrawn in the bank accounts held by the assessee with Renukamata Society Bank Ltd. In support of the above arguments, the Counsel for the assessee filed before us order passed by ITAT Mumbai Bench in the case of **Renukamat Multi State Cooperative Urban Credit Society Ltd. vs. ACIT (in ITA Nos. 4001 & 4002/Mum/2019)**, from which it is evident that Renukamata Society Bank has been regularly and for past several years engaged in the business of providing accommodation entries, by opening bank accounts in the names of people with meagre income, by luring them into opening bank accounts with Renukamata Society. Accordingly, it was submitted that the assessee was only a name lender and he was not the real beneficiary of such income. Further the Counsel for the assessee placed reliance on the case of **Chintan Niketan Bhandari vs. DCIT (in IT(SS)A Nos. 495 to 500 & 1604/Ahd/2019)** in support of the contention that only a reasonable percentage, if any, should be added in the hands of the assessee and the entire amount cannot be added as the income of the assessee.

9. In respect of additional ground raised by the assessee, the Id.Counsel clarified that assessee was a mere commission agent and not the principal beneficiary, and such Commission income was below the maximum amount which is not



chargeable to tax and that is why the assessee did not file the return of income, hence, the addition sustained by the learned CIT(A), at the rate of 5% of total cash deposit in bank account should also be deleted.

10. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. Before learned CIT(A), the assessee has made detailed summations along with documentary evidences. The learned CIT(A) sent the entire written submission of the assessee and the documents, to the assessing officer, to submit his remand report. The assessing officer submitted the remand report to the learned CIT(A) and learned CIT(A), then given the opportunity to the assessee, to submit the rebuttal on the remand report. Accordingly, the assessee submitted his reply on the remand report. The Learned CIT(A) after considering the remand report of the assessing officer and after considering the submission of the assessee, on the remand report, sustained the reasonable addition at the rate of 5% of the cash deposited in the said society. Therefore, we do not agree with the learned DR for the revenue that there is a violation of rule 46A of the Income Tax Rules. As we have noted that Ld. CIT(A), properly called the remand report from the assessing officer, in respect of the documents, additional evidences and written submission filed by the assessee before Id.CIT(A), and also given the opportunity to the assessee to submit his submissions/reply on the remand report, hence, the question of additional evidences, does not arise, therefore additional ground raised by the by the Revenue, stating that there is a violation of Rule 46(A) of the Income Tax Rules, is not acceptable.



11. We note that Co-ordinate Bench of ITAT Ahmedabad, on similar facts, that is, bank account holder ( customers) in **Renukamat Multi State Cooperative Urban Credit Society Ltd**, Vide order dated 17.04.2024 in I.T.A. Nos. 690 to 694/Ahd/2023 for Assessment Years, 2015-16 to 2017-18, in the case of Kaushik Pravinchandra Gohel, sustained addition at the rate of 0.25%, on account of commission income.

12. We note that Id CIT(A) observed that there is no evidence suggesting that the assessee has made any investments or incurred any expenditure of personal nature out of the cash withdrawn from the bank. The Id.CIT(A) also noticed that amount of cash deposits alone cannot be treated as income of the assessee. Thus, the action of the Assessing officer of making addition, on accounts of all deposits made in the bank accounts of the assessee is without any justification. There is cash deposit and cash withdrawal, the assessing officer considered only cash deposit and not cash withdrawal. A particular document should be analyzed within the four corners of law. There cannot be approval and rejection in the same steam. To attempt to take advantage of one part and to reject the rest, is against the five norms of jurisdiction. Therefore, the assessing officer ought to have taken cash deposit and cash withdrawal while make addition. The assessing officer has failed to bring on record any concrete evidence to support that the cash deposited in the assessee's bank account entirely formed part of his income. The assessing officer has simply relied upon the information received by him and has failed to corroborate it with any evidence or justification. After considering the facts in totality, the Id.CIT(A) estimated the income of the assessee by taking into account the information available on record, in a similar case and then estimated the income of the assessee at the rate of 5% of the total cash deposits made during the relevant assessment year, and directed the assessing officer to make addition in the hands of the assessee at the rate of 5% of the total cash deposits. We have



gone through the findings of the learned CIT(A) and noted that there is no infirmity in the conclusion reached by the learned CIT(A). In the wake of above delineation, we see no error in the conclusion drawn by the CIT(A) in this regard. The CIT(A) in our view, has rightly sustained the addition, in the hands of the assessee at the rate of 5%, as a profit element. We thus decline to interfere with the conclusion so drawn by the CIT(A) whose order is under challenge by the revenue. Similarly, the cross objection filed by the assessee, also does not call for separate adjudication and has become infructuous, as we have confirmed the findings of the learned CIT(A).

13. In the result, appeal filed by the Revenue, is dismissed and cross objection filed by the assessee, is also dismissed.

**Order pronounced in the open court on 15 / 07/2025.**

Sd/-

**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

Rajkot

दिनांक/ Date: 15/ 07/2025

Sd/-

**(Dr. A.L. SAINI)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot