



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
AND  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.149/RJT/2025  
Assessment Year: 2011-12

Jayshbhai Harsukhbhai Bhesdadiya 0 Prop. Gopi Dining Hall, 150ft Ring Road, Umiyaji Circle, Opp. BRTS Bus Stop, Nr. Bansibat Ceramic, Rajkot – 360004	बनाम /Vs.	ITO, Ward – 3(1)(3), Rajkot IT – Office, New Aayakar Bhawan, Vatiaka, Rajkot – 360001
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: <b>APBPB 6540 G</b>		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

निर्धारितकीओरसे/Assessee by : Shri Fenil H. Maheta, Ld.AR  
राजस्वकीओरसे/Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing : 05/06/2025  
घोषणाकीतारीख/Date of Pronouncement : 22/07/2025

**आदेश / ORDER**

**Per, Dr. A. L. Saini, AM:**

Captioned appeal filed by the assessee, pertaining to assessment year 2011-12, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by Commissioner of Income-tax (Appeal)/Addl.JCIT(A) Raipur [in short, “Ld.CIT(A)"] dated 09.01.2025, which in turn arises out of an order passed by the Assessing Officer, dated 28.11.2018, under section 143(3) r.w.s. 147 of the Income Tax Act, 1961.

2. The Grounds of appeal raised by the assessee are as follows:

1. That the learned ADDL/JCIT(A), Raipur has grievously erred in law and on facts in upholding the action of the learned A.O. in making the addition of Rs.6,65,964/- u/s 69A of the Act, by treating the cash deposits as unexplained income.



2. *That the learned ADDL/JCIT(A), Raipur has grievously erred in law and on facts in dismissing the appeal without following the mandate of provisions of section 250(6) of the Act.*
3. *That the learned ADDL/JCIT(A), Raipur has grievously erred in law and on facts in dismissing the appeal violating the principles of natural justice.*
4. *That the appellant craves leave to add, amend, alter, vary and / or withdraw above ground of Appeal.*

3. Succinctly, the factual panorama of the case is that assessee before us is an individual and has filed return of income for assessment year (A.Y.) 2011-12, declaring total income of Rs.1,50,560 /-, on 04.02.2013. During the year under consideration, the assessee derived income from Business of Dining Hall and sale of food ( Thali). In assessee`s case, as per the information available with assessing officer, the assessee has made cash deposit amounting to Rs.11,23,400/-, during the year under consideration. The source of amount of cash deposit does not commensurate with the return of income filed. So, after forming belief that income to the tune of Rs. 11,23,400/-, escaped assessment and following the procedure for re-opening of the assessment, the case was reopened u/s 147 of the Act, after recording the reasons and obtaining necessary approvals from appropriate higher authorities concerned. The notice u/s 148 of the Act, was issued by ITO ward-1(1)(1), Rajkot, on 27.03.2018, and duly served upon the assessee. In response to the notice, the assessee has filed return of income for the assessment year (A.Y.) 2011-12, on 01.10.2018, declaring total income of Rs.1,50,560/-. Subsequently notice u/s 143(2) of the Act was issued on 15.11.2018 and served to the assessee. Further, notice u/s.142(1) dated 15.11.2018 along with questionnaire was issued and served to the assessee. The reasons recorded for re-opening of the assessment was also provided to the assessee, on 15.11.2018.

4. In response to the above statutory notices u/s. 143(2)/142(1) of the Act, the assessee attended from time to time and made submission/explanation, as



and when called for. The assessing officer, having gone through the reply of the assessee and held that it would be fair to adopt high value of debit credit entry in the bank statement and high peak credit entry of Rs.6,65,964/- (Rs.7,26,604 - Rs.60,640 Op. Balance) which was treated as unaccounted income and added to assessee`s total income.

5. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has confirmed the action of the Assessing Officer, therefore, aggrieved by the order of Ld. CIT(A), the assessee is in further appeal before us.

6. 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 ld CIT(A) and other materials brought on record. Learned Counsel for the assessee, argued before us that during the assessment proceedings, the assessee submitted relevant documents and evidences to explain the book credit entry in the bank account and also explained that assessee has filed the return of income wherein he has declared the profit margin in respect of credit in the bank account. The assessee under consideration is engaged in the business of providing food/thali, dining, and sale of food, which is cash oriented business. The assessee, has filed the return of income and declared the income from such business and paid the tax thereon, therefore no further addition should be made in the hands of the assessee. Alternatively, the Ld. Counsel for the assessee also submitted that the entire cash deposit in the bank account should not be the profit of the assessee. Therefore, only profit element may be added in the hands of the assessee. On the other hand, the Ld. Senior DR for the Revenue has primarily reiterated the



stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity. We note that Assessing Officer has made the addition to the tune of Rs.6,65,964/-, the amount deposited in the bank account. The assessee submitted that the amount so deposited in the bank account is out of his business (sale of food/Thali). Therefore, only the profit element should be taxed in the hands of the assessee. We find merit in the submission of the Ld. Counsel of the assessee that since the assessee is running a dining hall and sale of food, where he received only cash from the customers. Therefore, his business is cash-oriented business, however, the Assessing Officer made addition to the tune of Rs. 6,65,964/- in respect of cash deposited in the bank account. We find that entire amount deposited in the bank account should not be treated as a profit of the assessee, therefore, considering the smallness of the amount we find that 5% addition should be made in the hands of the assessee, to cover the deficiencies in the various documents and evidences submitted by the assessee, during the assessment proceedings. Therefore, we direct the Assessing Officer to make the addition in the hands of the assessee, at the rate of 5% of Rs. 6,65,964/-, which comes to Rs.33,298/-.

7. We make it clear that we have partly allowed the appeal of the assessee, on the peculiar facts of this case and having regard to the smallness of the amount involved and the same criteria should not be construed on universal application, and therefore, the instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year.

8. In the result, assessee's appeal is partly allowed, in above terms.

Order is pronounced in the open court on 22/07/2025

Sd/-

**(DINESH MOHAN SINHA)**

न्यायिक सदस्य/JUDICIAL MEMBER

राजकोट/Rajkot

दिनांक/ Date: 22/07/2025

DKP Outsourcing Sr.P.S

Sd/-

**(DR. ARJUN LAL SAINI)**

लेखा सदस्य/ACCOUNTANT MEMBER



आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

// True Copy //

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, राजकोट