

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA Nos.186 to 193/SRT/2025
AYs: (2014-15 to 2017-18)**

Shri Vikas Agarwal, D-103, Pramukh Garden Kilvani Naka, Silvassa - 396230, Dadra and Nagar Haveli (UT)	vs.	ITO, Silvassa Ward, Silvassa
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: BCNPA1466N		
(Appellant)		(Respondent)

Appellant by	Shri Suresh K. Kabra, C.A.
Respondent by	Shri Ravi Kant Gupta, CIT-DR
Date of Hearing	31/07/2025
Date of Pronouncement	19/ 08/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

These appeals by the appellant emanate from the separate orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short, 'CIT(A)'] for the assessment years (AYs) 2014-15 to 2017-18, which in turn arise out of separate assessment and penalty orders passed by the Assessing Officer (in short, 'AO'). In all appeals, facts are common and grounds of appeal are similar. With the consent of both the parties, all appeals were clubbed, heard together and are decided by a

common order for brevity and convenience. For appreciation of facts appeal in ITA No.186/SRT/2025 for AY-2014-15 is treated as 'Lead case'.

2. The ground of appeal raised by the assessee in ITA No.186/SRT/2025 (AY 2014-15) is as under:

1. The Ld. CIT(A), NFAC, Delhi has erred and was not just and proper on the facts of the case and in law in confirming the addition of Rs.2,00,77,16,610/- u/s.69A of the Income tax Act.

3. The ground of appeal raised by assessee in ITA No. 187/SRT/2025 (AY 2014-15) is as under:

1. The Ld. CIT(A), NFAC, Delhi has erred and was not just and proper on the facts of the case and in law in confirming the penalty u/s.271(1)(c) of the Act.

4. The ground of appeal raised by appellant in ITA No.188/SRT/2025 for AY. 2015-16 is as under:

"1. The Ld CIT, NFAC has erred and was not just and proper on the facts of the case and in law on confirming the addition of Rs.10,79,500/- u/s 69A of the Income-tax Act.

2. the Ld CIT, NFAC has erred and was not just and proper on the facts of the case and in law in confirming the addition of Rs.8,76,22,375/- u/s 69A of the Income-tax Act.

3. PRAYER

3.1 The addition made by Ld Assessing Officer and confirmed by the Ld CIT(A)-NFAC may be kindly deleted.

3.2 Personal hearing may be granted.

3.3 Any other relief that your honours may deem fit may be granted.

4. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeals."

5. The ground of appeal raised by appellant in ITA No.189/SRT/2025 for AY. 2015-16 is as under:

"1. The Ld Faceless Assessing Officer has erred and was not just and proper on the facts of the case and in law in confirming the Penalty u/s 271(1)(c).

2. PRAYER:

2.1 The penalty imposed may be kindly deleted.

2.2 Any other relief that your honours may deem fit may be granted.

3. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeals."

6. The ground of appeal raised by appellant in ITA No.190/SRT/2025 for

AY. 2016-17 is as under:

"1. The Ld CIT, NFAC has erred and was not just proper on the facts of the case and in law in confirming the addition of Rs.8,14,01,800/- u/s 69A of the Income-tax Act.

2. The Ld CIT, NFAC has erred and was not just proper on the facts of the case and in law in confirming the addition of Rs.3,98,76,980/- u/s 69A of the Income-tax Act.

3. PRAYER:

3.1 The addition made by Ld Assessing Officer and confirmed by the Ld CIT(A) – NFAC may be kindly deleted.

3.2 Personal hearing may be granted.

3.3 Any other relief that your honours may deem fit may be granted.

4. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeals."

7. The ground of appeal raised by appellant in ITA No.191/SRT/2025 for

AY. 2016-17 is as under:

"1. The Ld Faceless Assessing Officer has erred and was not just and proper on the facts of the case and in law in confirming the Penalty u/s 271(1)(c).

2. PRAYER:

2.1 The penalty imposed may be kindly deleted.

2.2 Personal hearing may be granted.

2.3 Any other relief that your honours may deem fit may be granted.

3. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeals."

8. The ground of appeal raised by appellant in ITA No.192/SRT/2025 for AY. 2017-18 is as under:

“1. The Ld CIT, NFAC has erred and was not just proper on the facts of the case and in law in confirming the addition of Rs.9,31,69,950/- u/s 69A of the Income-tax Act.

2. The Ld CIT, NFAC has erred and was not just proper on the facts of the case and in law in confirming the addition of Rs.20,50,000/- u/s 69A of the Income-tax Act.

3. PRAYER:

3.1 The addition made by Ld Assessing Officer and confirmed by the Ld CIT(A) – NFAC may be kindly deleted.

3.2 Personal hearing may be granted.

3.3 Any other relief that your honours may deem fit may be granted.

4. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeals.”

9. The ground of appeal raised by appellant in ITA No.193/SRT/2025 for AY. 2017-18 is as under:

“1. The Ld Faceless Assessing Officer has erred and was not just and proper on the facts of the case and in law in confirming the Penalty u/s 271AAC(1).

2. PRAYER:

2.1 The penalty imposed may be kindly deleted.

2.2 Personal hearing may be granted.

2.3 Any other relief that your honours may deem fit may be granted.

3. The appellant craves leave to add, amend, alter or delete any or all of the above grounds of appeals.”

ITA No.186/SRT/2025 (AY.2014-15):

10. The facts of the case in brief are that the assessee did not file his return of income for AY 2014-15. An information was flagged on the Insight portal of the Income tax department under High Risk CRIU/VRU category in case of the assessee for the FY 2013-14. An enquiry/investigation was carried out by the Jt. DIT (Inv.), Unit -1, Vapi on the basis of STR reported by

IDBI Bank Ltd., Vapi Branch that there were abnormally high credits and debits including cash deposits in the current account (Account No. 0224102000010867) in the name of 'Saicon Enterprises'. The STR also gave details of the accounts linked to the said bank account of the appellant through various transactions. It was gathered that the appellant was in the business of building materials such as joint beams, channels, angles, flats, etc. in the name of 'Saicon Enterprises'. The appellant was also engaged in the scrap metal business in the name of 'M/s. Om Traders'. It was found during the investigations that the appellant was having account with Central Bank of India (Account No. 3262813105) in the name of M/s. Om Traders. He also maintained IDBI Bank A/c. No. 0224102000010867 and 0224102000011176 in the names of M/s. Saicon Enterprises and M/s. Om Traders respectively. On perusal of bank statements, it was found that there were total cash deposits and other credits amounting to Rs.200,77,16,609/- in the said bank accounts during the FY 2013-14 (AY 2014-15). The details of the cash deposits and other credits are as under:

Account No.	Cash deposits (Rs.)	Other Credits (Rs.)	Total (Rs.)
3262513105 (Central Bank of India)	55,000/-	24,38,48,870/-	24,39,03,870/-
0224102000010867 - IDBI Bank	--	1,76,38,12,739/-	1,76,38,12,739/-
Total	55,000/-	200,76,61,609/-	200,77,16,609/-

10.1 As stated earlier, the appellant had not filed return of income for the AY 2014-15. An inquiry letter was issued to the appellant by the AO;

however, no compliance was made thereto. Considering the above facts, it was prima facie evident that the total cash deposit and credit entries amounting to Rs.2,00,77,16,609/- represented the appellant's undisclosed income which had not been offered for taxation. Therefore, case of the assessee was reopened u/s.147 of the Act after recording reasons and obtaining necessary approval from appropriate authority and notice u/s.148 of the Act was issued on 31.03.2021. No return was filed in response to the above notice. Thereafter, notice u/s 142(1) of the Act along with detailed questionnaire was issued to the assessee on 19.08.2021 and served upon the assessee. The case of the appellant was finally transferred the ITO to Silvassa Ward, Silvassa (AO). The AO issued notices u/s.142(1) of the Act along with detailed questionnaire through Speed post, but the same was returned 'unserved' with the remark - 'address is not available'. The Inspector was deputed to make enquiry about assessee and serve the notice on him. Consequently, notice had been served by affixture vide Panchnama dated 16.02.2022 to the appellant on the address mentioned in the KYC details provided by the Central Bank of India.

10.2 During the course of enquiry by the Investigation Unit and during assessment proceedings, several opportunities of being heard were granted to the appellant by way of statutory notices, viz., summon u/s.131 of the Act dated 05.01.2021 and 19.01.2021 and notices u/s.142(1) of the Act;

however, appellant remained non cooperative and no details were furnished by him. Besides, no return of income was filed in response to notice u/s.148 of the Act. Details of the effort made by AO to serve notices on assessee and make contact with him are mentioned in para 3 & 4 of the assessment order. Subsequently, bank statements of the appellant's accounts with the Central Bank of India and IDBI Bank were obtained by issuance of notices u/s.133(6) of the Act. On perusal of bank statements, it was noticed that total cash deposits and other credits amounting to Rs.200,77,16,609/- were reflected in the said bank accounts. On further verification of bank statements of IDBI Bank (A/c. No. 0224102000010867) and The Central Bank Of India (A/c. No. 3262513105), it was seen that amount credited had been either withdrawn through cheque or transferred to various entities through RTGS, namely, M/s. Twenty First Century Wire Rods Ltd., M/s. Nissim Traders Pvt. Ltd. and M/s. Bhavna Exim Pvt. Ltd. To verify the nature and veracity of transactions, notices u/s. 133(6) of the Act were issued to the aforementioned three companies, but no response was received from any of them. Therefore, a show cause notice was issued to the appellant on 12.03.2022 which was served through affixture vide Panchnama dated 16.03.2022. Again, there was no compliance to the show cause notice. As a result, the cash deposits and credit entries in the above bank accounts of the appellant during F.Y. 2013-14 (A.Y. 2014-15) remained unexplained. Accordingly, addition

aggregating to Rs.200,77,16,609/- [(Cash: 55,000) + (Credits: 2,00,76,61,609)] was made u/s.69A of the Act and order u/s.147 r.w.s.144 of the Act was passed on 30.03.2022. Total income was determined at Rs.200,77,16,610/- and penalty proceedings u/s 271(1)(c) of the Act were initiated for concealment of particulars of income. Penalty proceedings u/s 271(1)(b) and 271F of the Act were also initiated for failure to comply with notices u/s 142(1) of the Act and for failure to file return of income u/s 139(1) of the Act respectively.

10.3 Aggrieved by the order of AO, the appellant filed appeal before the CIT(A). Before the CIT(A), it was stated in Form 35 that appellant is an individual working as an employee with the Twenty First Century group of companies, which is controlled by Vinod/Gaurav Goyal and that he had been regularly filing his return of Income under PAN: AFXPA3729A. During the course of appellant's employment, the management of the company, without his knowledge, obtained another PAN as BCNPA1466N in his name with his forged signature. Under this new PAN (BCNPA1466N), various bank accounts were opened and voluminous transactions were done. It was also submitted that the appellant was filing his return of income under his regular PAN: AFXPA3729A, declaring the regular income earned by him. The transactions under the new PAN: BCNPA1466N, unknown to him, was not included in his return of income. On receiving a call from the IT Department

in January, 2023, the appellant visited the office on 19.01.2023 and he came to know that assessment in his name had been completed and that there was huge demand of income tax on him. He then found that the PAN on which the assessment was completed was also unknown to him. His statement was also recorded on 19.01.2023 and was finally concluded on 10.03.2023. Subsequently, upon receiving copy of assessment order on 04.08.2023, the appellant filed the appeal before the CIT(A). The appellant stated that only apparent grounds were raised and further grounds will be raised after obtaining details from AO.

10.4 The appellant raised various grounds on validity of order u/s 147 of the Act as well as merits of additions. He also challenged assessment of the transactions in the forged bank accounts in his name. During the appellate proceedings, the appellant had furnished written submission on 04.06.2024. Since the same was additional submission, a remand report was called from the AO by the CIT(A), vide letter dated 31.07.2024. In response, the AO had submitted the remand report dated 02.10.2024. The aforesaid remand report was forwarded to the appellant vide notice dated 18.11.2024 to submit a rejoinder by 29.11.2024. However, appellant did not file any rejoinder but requested for adjournment of 15 days. Accepting the appellant's request, final opportunity was provided on 26.12.2024 to submit appellant's contentions with supporting evidence/submissions. However, the

appellant did not furnish any submission or evidence on the final hearing date. The details of opportunities granted to assessee are at Para 4 of the appellate order. In view of the non-compliance of the appellant, Ld. CIT(A) adjudicated the grounds of appeal raised on the basis of appellant's submission, facts, assessment order, remand report and material available on record and passed the order u/s 250 on 08.01.2025.

10.5 As the AO passed his re-assessment order u/s 147 of the Act on 30.03.2022, the appeal should have been filed within 30 days by 29.04.2022 as per section 249(2) of the Act. However, it was filed after a delay of more than 17 months. The appellant had not given any sufficient cause for the inordinate delay. But the CIT(A) was very fair and reasonable in condoning the delay and admitting the appeal for adjudication.

10.6 It was alleged by the appellant that the reassessment proceedings were initiated wrongly without considering the facts on the record. The CIT(A) forwarded submission of assessee to AO and obtained the remand report, which is at para 8.11 of the appellate order. He noted that AO issued notice as per the PAN data base and address of the bank for KYC verification. The CIT(A) also noticed that to verify the information regarding huge cash deposits and credits of Rs.2,00,77,16,609/- made in the bank accounts of the appellant, summons u/s.131 of the Act were issued on 05.01.2021, 19.01.2021 and the same were duly served on the appellant. However, none

attended in compliance to the summons issued. As such, the AO had formed a belief that the appellant's income had escaped assessment, and accordingly, he issued notice u/s.148 of the Act on 30.03.2021. The CIT(A) held that notice u/s.148 of the Act was issued as per the provisions of the Act by complying with all the requirements. Accordingly, this ground of appeal was dismissed by Ld. CIT(A) by holding that the ground raised by the appellant without any basis and was a mere allegation to thwart the proceedings.

10.7 The other grounds of appeal raised by the appellant were with regard to the issue of addition made by the AO of Rs.200,77,16,609/- treating the cash deposits/credits during the year as unexplained money u/s.69A of the Act. The appellant had submitted that the transactions of the cash deposits and credits in his bank accounts were not undertaken by him. He submitted that PAN had been forged by his employer and he had no idea about it. He had filed police complaint in this matter. The addition made by the A.O was arbitrary and unjustified. He also submitted that the AO had not independently applied his mind to the facts of this case and had merely taxed the entire cash deposits/credits without any basis. He contended that the circumstances in the present case do not warrant invocation of the provisions of section 69A of the Act. He also relied on same decisions in favour of assessee concerned.

10.8 The submission of the assessee was forwarded to AO for remand report. The remand report is at para 9.2.1 at pages 30 to 46 of the order of CIT(A). The AO attached bank account opening form, self-attested copies of PAN card, registration certificate with VAT, xerox copy of cheque for Rs.1,00,000/- to IDBI Bank containing signature of the appellant. He also compared the signature in documents submitted to open bank account with the signature given in the statement recorded on oath before him on 19.01.2023 and gave a categorical finding that the signatures for applying the second PAN and opening bank accounts in IDBI and Central Bank of India were those of the assessee. Hence, claim that the bank accounts were opened by forgery is not proved. The remand report was forwarded to appellant for rejoinder. He did not file rejoinder and sought further time; but again he did not file any reply to controvert findings of AO. It was thus clear that assessee has no explanation and supporting evidence to counter the findings of AO.

10.9 The CIT(A) noticed that to prove the genuineness of the transactions in the bank, the appellant had not furnished any supporting proof / evidence. Therefore, a remand report was called from the AO on the submission of the appellant. The AO submitted a detailed remand report on the appellant's contentions. Vide the aforesaid remand report, the AO had stated that - *"Perusal of the above documents makes it clear that the signatures were*

done by the appellant himself while applying for the second PAN, opening the bank account of the proprietary concerns, viz., M/s. Saicon Enterprise and M/s. Om Traders with the IDBI and Central Bank of India". The AO had observed that the appellant was well aware of the bogus transactions undertaken through the bank accounts which were opened by him. Regarding the submission of the appellant that he had filed police complaint regarding the misuse of the PAN and his name, it was submitted by the AO that no acknowledgment of such police complaint received from the police station had been furnished by the appellant. Moreover, the appellant had not furnished the Case number registered and status of the complaint and action taken against such complaint. The mere production of India Post acknowledgement on the complaint could not be considered as a valid police complaint. It was also submitted by the appellant that an unknown person had forged his documents to obtain a new PAN, whereas during the appellate proceedings, it was contended by the appellant that his employers had forged the PAN under his name.

10.10 It was observed by the CIT(A) that unexplained cash deposits and credits reflected a clear case of concealment of income, falling under the purview of Section 69A of the Act. The burden of proof was on the appellant to establish the legitimacy of these transactions, which had not been discharged. The appellant had also failed to prove the nature and source of

the alleged transactions during the appellate proceedings with any clinching evidence. The CIT(A) also distinguished the facts of the cases relied upon by assessee and held that assessee has not proved that the documents, i.e., PAN, bank accounts were forged. In view of the above facts, the CIT(A) dismissed the appeal.

11. Aggrieved by the order of CIT(A), the appellant filed appeal before this Tribunal. The learned Authorized Representative (Id. AR) of the appellant filed paper book giving various details, viz. return of income filed by the appellant in original PAN: AFXPA3729A, copies of bank statements held with the IDBI Bank, IndusInd Bank (linked with his PAN: AFXPA3729A), copies of bank statements held with IDBI Bank in name of proprietary concerns, i.e., M/s Om Traders and M/s Saicon Enterprises and with Central Bank of India (these accounts were linked with appellant's another PAN: BCNPA1466N). He also filed copy of NCLT order in case of Twenty First Century Wire Rods Limited, dated 12.09.2018. The Id. AR submitted that the appellant was not aware of the financial transactions made in the bank accounts linked with his another PAN: BCNPA1466N, nor the appellant was aware of the assessment proceedings and assessment order passed in his case, till January, 2023. The appellant did not receive any of the notices issued in his name during the assessment proceedings. He also stated that most of the money credited in the bank accounts of the appellant was subsequently transferred to the bank

account of his employer, viz., Twenty first Century Group of Companies. He, therefore, requested to set aside the case back to the file of AO.

12. On the other hand, learned Commissioner of Income-tax – Departmental Representative (Id. CIT-DR) relied upon the orders passed by the AO and CIT(A) and vehemently opposed the setting aside of the case to the file of AO on the ground that all the statutory notices were duly served, and that the appellant was well aware of the assessment proceedings in his case. Also, the remand report of AO makes it amply clear that signatures were given by the appellant himself while applying for second PAN and for opening the bank account of the proprietary concerns, viz., M/s. Saicon Enterprise and M/s. Om Traders with the IDBI Bank and Central Bank of India. Therefore, appellant was well aware of the unaccounted transactions undertaken through the bank accounts of these proprietary concerns. Regarding the police complaint, Id. CIT-DR submitted that the purported police complaint is totally unconvincing. No FIR number, investigation status, acknowledgment by police authorities or response from investigating agencies was ever furnished by the assessee. Only a postal acknowledgment of having sent a letter to the police is on record. Such an acknowledgment does not elevate the submission to the status of a genuine, pursued police complaint. It is further stated by Id. CIT-DR that in the police complaint, there is no mention regarding the PAN being forged by his former employer.

The appellant's different stand at different forums raises suspicion and doubt on the genuineness of the police complaint filed by him. He, therefore, submitted that in view of the above stated facts and since sufficient opportunities of being heard and to file necessary details/submission regarding his contention have already been provided to the appellant both at the AO and CIT(A) stage, therefore, setting aside the case back to the file of the AO would serve no purpose.

13. We have considered the rival submissions and carefully perused the assessment order, appellate order the remand report and the material available on record. The appellant has raised only one ground, challenging the addition of Rs.2,00,77,16,610/- u/s 69A of the Act. The core issue revolves around whether the impugned bank accounts and second PAN were genuinely misused by others without the appellant's knowledge or whether the appellant is attempting a post-facto denial of his involvement to escape tax liability.

14. The reopening of the case was based on credible information from a Scheduled Bank, i.e., suspicion transaction report (STR) issued by IDBI Bank and subsequent investigation by the Income-tax Investigation Wing, which revealed significant unexplained transactions in the appellant's bank accounts. The formation of belief by the AO that income had escaped assessment was based on tangible and specific material. All statutory

requirements for reopening under section 147 were complied with. In any case, no ground on re-opening is raised. Hence, there is no need for further discussion or adjudication.

15. As regards the service of notices, it is observed that notices u/s 148, 142(1), and 131 of the Act were served through speed post as well as affixture at the addresses furnished in the PAN data base and bank KYC documentation. Service by affixture, as executed through valid Panchnama, satisfies the statutory mandate under the Act and cannot be ignored merely based on the appellant's unsubstantiated denial of receipt. Be that as it may, the CIT(A) has granted reasonable and adequate opportunity of being heard during the appellate proceedings. The appellant chose not to file reply and evidence for reasons best known to him. This is also not a ground raised by the appellant before us. Hence, we refrain from making further comment on this issue.

16. The claim of forgery and identity misuse by appellant lacks credibility. The appellant's claim that the PAN: BCNPA1466N and associated bank accounts were forged by his employer stands on a weak foundation. The remand report submitted by the AO categorically states, based on a number of documentary evidences, that the PAN application and bank account opening forms bore the appellant's own signature. At no point has the appellant produced any documentary evidence to demonstrate that the

signatures were forged. Even assuming for a moment that the appellant had no knowledge, the burden was upon him to substantiate the serious allegation of forgery with conclusive evidence, which he has failed to do. In fact, he remained silent and did not controvert the categorical finding of AO in the remand report despite getting adequate opportunity to furnish reply with supporting evidence.

17. As regards the police complaint lodged by the appellant regarding the misuse of the PAN and his name, no acknowledgment from the police station was furnished nor other details viz., the Case number registered with police, status of the complaint and action taken against such complaint, have been furnished by the appellant before the lower authorities or the Tribunal. The purported police complaint is totally unconvincing. No FIR number, investigation status, acknowledgment by police authorities, or response from investigating agencies, were ever furnished. Only a postal acknowledgment of having sent a letter to the police is on record. Such an acknowledgment does not elevate the purported submission to the status of a genuine, pursued police complaint. Further, inconsistent stands have been taken by the appellant. Before the CIT(A), the appellant alleged that his employer forged his PAN, whereas in the police complaint, it is submitted that an unknown person forged the documents. This apparent contradiction further weakens the credibility of the defense. Nothing new has been

submitted by the appellant before the Tribunal. As discussed earlier, the appellant did not even try to rebut the findings of AO in the remand proceedings and chose not to join the issue, implying thereby his inability to counter the findings of the AO.

18. We also find that the onus under section 69A of the Act has not been discharged by the appellant. Section 69A places a legal burden on the assessee to explain the nature and source of money found in his possession or bank accounts. In this case, the appellant has not even attempted to explain the origin of the funds or the business activities of M/s Saicon Enterprises and M/s Om Traders. The transactions involved structured round-tripping and immediate withdrawals or RTGS transfers to other related entities including M/s. Twenty First Century Wire Rods Ltd., where the appellant is reportedly employed. This transactional pattern points toward deliberate unaccounted activity, and not accidental misuse of credentials.

19. We also find that during the appellate proceedings before the CIT(A), the appellant failed to submit the rejoinder on remand report of AO even after being provided with sufficient time and opportunity for the same. This amply points to the fact that the appellant had ample opportunity during the assessment and appellate proceedings to produce any rebutting evidence,

but he failed to avail such opportunity. This conscious inaction cannot now be rewarded with the benefit of doubt.

20. The appellant has not been able to establish any credible basis to interfere with the well-reasoned orders of the lower authorities. The case involves systematic, high-value unexplained financial activity over a sustained period of time. The defences offered are weak on facts, inconsistent, and unsupported by cogent evidence. Accordingly, we find no merit in the contention of the Id. AR.

21. The Hon'ble jurisdictional High Court in case of B. I. Investment (P.) Ltd. vs. CIT, 163 Taman 657 (Guj.) held that section 69A, on one side, gives authority to the AO to include value of property into income of assessee, but at the same time, gives respite by providing a chance to assessee to explain the source of income or explain the nature and acquisition of such property or convince the AO that the property, though was in his possession, yet, in fact, did not belong to him. If the explanation offered by the assessee is accepted, that would be the end of the matter. But in case the explanation is not accepted, then the mandate of section 69A would come into operation and the value of such property, namely, bullion, money etc. would be deemed to be the income of the assessee. In this case, the assessee is the owner of the bank accounts where cash deposits and credit entries of Rs.200,77,16,609/- were made during the year. Such money is not recorded

in the books of account of the assessee. The appellant failed to offer explanation about the nature and source of acquisition of the money in the impugned bank accounts. Further, the explanation offered by the assessee was, in the opinion of AO, not satisfactory. Hence, all the ingredients of section 69A are satisfied, making the assessee liable to tax u/s 69A of the Act. The findings of the AO has been confirmed by the CIT(A) after calling for a remand report from the AO, which the assessee could not rebut despite being granted reasonable and adequate opportunity of being heard. Before the Tribunal also, the appellant has not advanced any other explanation or produced any new material so as to interfere with the findings of the AO, which was duly confirmed by the CIT(A).

22. Useful reference may also be made to the decision of the Hon'ble Supreme Court in case of CIT vs. K. Chinnathamban, 292 ITR 682 (SC) where the Hon'ble Court held that the onus of proving source of deposit primarily rests on person in whose name deposit appears in various banks. Since the assessee failed to show that the amount in question did not represent his income, the Department was justified in treating same as assessee's income u/s 69A of the Act. There is no reason as to why ratio of the above decisions shall not apply to the facts of the appellant.

23. in view of the above facts and the decisions cited supra, we do not find any merit in the ground of appeal and the same is dismissed.

24. In the result, appeal of assessee is dismissed.

ITA No.187/SRT/2025 (AY.2014-15)

25. This appeal is against the levy of penalty u/s 271(1)(c) of the Act by the AO vide order dated 21.09.2022. Penalty proceedings u/s.271(1)(c) of the Act were also initiated by the AO for concealing particulars of income while completing the order of re-assessment u/s 147 r.w.s. 144 dated 31.03.2022. The assessee was given sufficient opportunities of being heard vide notices/show cause notices; however, there was no compliance to any of them. It was, therefore, observed that the appellant had not only failed to file return of income but also failed to comply with any of the notices issued by the AO. Also, the appellant had failed to explain the source of cash deposits and amount credited in bank account. Therefore, it was clearly established that appellant had wilfully, knowingly and without reasonable cause concealed his income and thereby committed a default which was liable for penalty u/s 271(1)(c) of the Act. Accordingly, penalty order u/s 271(1)(c) of the Act imposing minimum penalty of Rs.68,22,30,265/- (@100% of tax sought to be evaded) was passed on 21.09.2022.

26. Aggrieved by the penalty order, assessee filed appeal before the CIT(A). The CIT(A) condoned the delay in filing the appeal and admitted the appeal for adjudication. He granted various opportunities to the appellant, which are noted in para 4 of the appellate order. The request of the assessee

for adjournment was accepted and further opportunities were given after the quantum appeal was decided on 08.01.2025. However, the appellant did not furnish any reply in support of instant penalty appeal till the date of passing the impugned order by CIT(A) on 24.01.2025. The addition was made u/s 69A of the Act, and hence, the AO rightly invoked provisions of section 271(1)(c) of the Act for concealment of income. The addition was confirmed by the CIT(A). The appellant did not provide any reason or explanation before the CIT(A) to prove that there was reasonable cause as provided u/s 273B of the Act. Hence, he held that the AO had rightly invoked penalty provisions u/s 271(1)(c) of the Act for concealment of income and rightly levied the penalty under the said section. Accordingly, he dismissed the appeal.

27. Penalty under section 271(1)(c) of the Act is clearly attracted in this case. The levy of penalty under section 271(1)(c) is justified when the assessee either conceals particulars of income or furnishes inaccurate particulars. In the instant case, the appellant not only failed to file the return of income, but also withheld material facts and offered no explanation when repeatedly prompted during the proceedings before the lower authorities. It was only at a belated stage after conclusion of assessment that the appellant made written submission before CIT(A). The CIT(A) called for the remand report and forwarded the remand report of AO to the appellant for rebuttal,

which was never responded to. As a result, the CIT(A) confirmed the addition made u/s 69A of the Act. We have already confirmed the order of CIT(A) in ITAT No.186/ST/2024 (supra). We do not find any reason to differ with the finding of the CIT(A) in confirming the penalty levied u/s 271(1)(c) of the Act. Accordingly, appeal of the appellant is dismissed.

ITA Nos.188 to 192/SRT/2024 (AYs 2015-16 to 2017-18):

28. Since the facts of the case of the assessee for AYs 2015-16, 2016-17 and 2017-18 are similar, therefore, our decision in assessee's appeals in ITA No.186/SRT/2025 (supra) shall be applicable to assessee's appeal in ITA No.188/SRT/2025, ITA No.190/SRT/2025 and 192/SRT/2025 against quantum additions, for AYs 2015-16, 2016-17 and 2017-18, respectively. Likewise, decision of this Tribunal in ITA No. 187/SRT/2025(supra) shall be applicable to assessee's appeal in ITA Nos.189/SRT/2025 and 191/SRT/2025 against penalty levied under section 271(1)(c) of the Act, for AYs 2015-16, 2016-17 respectively. Accordingly, these five appeals are dismissed.

ITA No. 193/SRT/2024 (AY 2017-18):

29. The AO initiated penalty proceedings u/s 271AAC of the Act for the additions made on account of unexplained money u/s 69A of the Act in the re-assessment order u/s 147 r.w.s. 144 dated 30.03.2024. He issued a notice on 30.03.2022 asking the assessee to show cause as to why penalty should not be imposed u/s 271AAC(1) of the Act. However, the assessee did not reply.

Thereafter, another opportunity was issued to the assessee, which again was not complied with. Hence, the AO was satisfied that it was a fit case of levy of penalty as per the provisions of section 271AAC(1) of the Act. Accordingly, he levied penalty of Rs.33,62,912/-, being @10% of the tax on income determined u/s 69A of the Act. On further appeal, the CIT(A) issued six notices to the appellant, which are mentioned at para 4 of the appellate order. The appellant only sought adjournment, but did not file any reply. The CIT(A) condoned the delay in filing appeal and decided the appeal after considering the material on record. He confirmed the penalty levied by the AO by observing that addition was made u/s 69A of the Act and assessee did not provide any reason/explanation to prove reasonable cause u/s 273B of the Act. We have already confirmed the order of CIT(A), who had dismissed appeal of the assessee against the order u/s 147 r.w.s 144 dated 30.03.2022. In this case, addition of Rs.9,52,19,950/- (9,31,69,950 + 20,50,000) was made u/s 69A of the Act. Section 271AAC was inserted by the Taxation Laws (Second Amendment) Act, 2016 w.e.f. 01.04.2017 to provide that where the income determined includes any income referred to in section 68, 69, 69A, 69B, 69C or 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable u/s 115BBE (@60%), a sum computed at the rate of 10% of the tax payable u/s 115BBE. No penalty under this section is leviable if the assessee, in the return furnished u/s 139, has included such income and has paid tax u/s 115BBE. In the present case, the appellant has not filed any return of income u/s 139(1) of the Act. Therefore, provisions of section 271AAC are clearly

applicable. We do not find any infirmity in the order of CIT(A) in confirming the penalty levied u/s 271AAC(1) of the Act by the AO. Accordingly, the appeal is dismissed.

30. In the result, the appeal of the assessee is dismissed.

31. In the combined result, all eight appeals of the assessee are dismissed.

Orders are pronounced under provision of Rule 34 of ITAT Rules, 1963 on 19/08/2025.

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Surat

दिनांक/ Date: 19/08/2025

SAMANTA

Copy of the Order forwarded to:

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

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat