

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.318/Ahd/2025  
(Assessment Year: 2012-13)

Somabhai Mohandas Patel, E-29, Divyjayot Tenament, Nikol- Naroda Road, B/h. Shyam Farm, New Naroda, Gujarat-382350	Vs.	Income Tax Officer, Ward-3, Palanpur
<b>[PAN No.ACQPP0554J]</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Vivek Chavda, AR
<b>Respondent by:</b>	Shri Rajenkumar M Vasavda, Sr. DR

<b>Date of Hearing</b>	13.08.2025
<b>Date of Pronouncement</b>	02.09.2025

**ORDER**

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 24.09.2024 passed for A.Y. 2012-13.

2. At the outset, we observe that the appeal is time barred by 72 days. The delay of 72 days is condoned on due consideration of facts of assessee’s case and owing to causing no perceptible prejudice to other side.

3. The assessee has raised the following grounds of appeal:

*“1.1 The order passed u/s. 250 on 24.09.2024 for A.Y.2012-13 by NFAC, Delhi upholding the addition of Rs.10,33,012 made by AO is wholly illegal, unlawful and against the principles of natural justice.*

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1.2 The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the eccentric facts and evidence available with regard to the impugned additions.

1.3 The Ld. CIT(A) has grievously erred in law and on facts in not carrying out any inquiry with regard to the applicability of the provisions of Income tax Act and thereby violated the principle of natural justice. Therefore, the appellant shall be granted opportunity to produce additional evidences.

2.1 The Ld. CIT(A) has grievously erred in law and or on facts in upholding the **reopening u/s 147** of the Act.

2.2 That in the facts and/or in the law, the Ld. CIT(A) ought not to have upheld the reopening u/s 147 of the Act.

3.1 The Ld. CIT(A) has grievously erred in law and on facts in upholding the addition of **Rs.10,33,012/-** being share in property.

3.2 That the Ld. CIT(A) ought not to have upheld addition of **Rs.10,33,012/-** being share in property.

3.3 The Ld. CIT(A) has grievously erred in law and on facts in upholding the addition when the appellant has clearly proved through documentary evidence that his actual investment was only **Rs.8,26,410/-** and not **Rs.10,33,012/-**.

4.1 The Ld. CIT(A) has grievously erred in law and or on facts in not granting opportunity of being heard via **video conferencing**.

4.2 The Ld. CIT(A) has failed to appreciate that granting opportunity of being heard via video conferencing facility is mandatory in the new regime of Faceless appeal process.

4.3 The Ld. CIT(A) ought to have granted opportunity of being heard via video conferencing.”

4. The brief facts of the case are that based on information available from the Income Tax System (ITS), the Assessing Officer observed that the assessee had purchased an immovable property during the year under consideration for a total consideration of ₹82,64,025/- along with other co-owners. The Sub-Registrar, Ahmedabad, provided a copy of the registration deed to the Assessing Officer, which showed that the assessee held a 12.5% share in the aforesaid property, which amounted to an investment of

₹10,33,012/-. The Assessing Officer was of the view that since the assessee failed to provide any explanation regarding the source of this investment despite several notices having been issued to him, the amount was liable to be treated as income from undisclosed sources and added to the total income. Accordingly, the total income of the assessee was computed at a sum of ₹10,82,434/-.

5. In appeal before CIT(Appeals), the assessee submitted that he had borrowed a sum of ₹4,00,000/- from M/s Jay Ambe Sales Agency, whose proprietor was his daughter-in-law, Mrs. Urmila Kalpeshbhai Patel. The assessee submitted supporting documents viz. a copy of the sale deed, PAN, and bank statement etc. CIT(Appeals) noted that since these documents were submitted for the first time before him, and not during the original assessment, these additional evidences were forwarded to the AO for verification and comments in the form of a remand report. In the remand report, the AO pointed out that the assessee remained non-compliant during both the original assessment and the remand proceedings. The AO clarified in the Remand Report that although the assessee claimed to have borrowed ₹4,00,000/- from a third party on 24/03/2012, the property purchase took place earlier, on 14/03/2012, thus casting doubt on the credibility of the assessee's claim. The assessee also failed to furnish a confirmation from the creditor or proof of repayment, indicating that the story of borrowing was likely to be fictional only to justify the unexplained investment. The CIT(A) concurred with the findings of the AO and held that the assessee had not satisfactorily explained the source of investment in the immovable said

property. Accordingly, the addition of ₹10,33,012/- made under section 69 of the Act, as income from undisclosed sources was confirmed by the CIT(A).

6. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee. Before us, the ld. counsel for the assessee submitted that the assessee is a 70-year-old retired Government Employee who served as an Instructor at an Industrial Training Institute under the Government of Gujarat for nearly 30 years. Upon retirement in 2010, he received lump sum retirement benefits amounting to ₹12,63,448/- and pension income of ₹1,16,976/- for the period from July 2010 to March 2011. In addition, he borrowed ₹4,00,000/- on 24th March 2012 from M/s Jay Ambe Sales Agency, a proprietorship concern of his daughter-in-law, Mrs. Urmila Kalpeshbhai Patel. Based on these facts, the ld. counsel for the assessee submitted that the assessee had sufficient financial resources to make the investment of ₹8,26,410/- towards the purchase of the immovable property.

7. Upon a careful and considered perusal of the assessment order, the order of the learned Commissioner of Income Tax (Appeals), and the written submissions filed by the assessee, it is evident that the addition of ₹10,33,012/- made under section 69 of the Act on account of unexplained investment in immovable property deserves to be deleted. The assessee has explained that he is a retired Government Employee, having served as an Instructor at an Industrial Training Institute under the Government of Gujarat for nearly 30 years, and had received retirement benefits amounting to ₹12,63,448/- in 2010, along with pension receipts of ₹1,16,976/- for the subsequent period. These facts, in our view establish that the assessee

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possessed substantial funds at his disposal well before the purchase of the property. In addition to this, the assessee submitted that he borrowed ₹4,00,000/- from M/s Jay Ambe Sales Agency, a proprietorship concern of his daughter-in-law, in March 2012. While it is true that this evidence was produced at the appellate stage, there is no allegation or finding that the documentation submitted is fabricated or inherently unreliable. The assessee's failure to respond to notices during assessment proceedings, cannot be the sole ground to reject a the assessee's explanation regarding source of investment, particularly in a case where no evidence has been brought on record to show that the assessee was engaged in any undisclosed business or profession generating unaccounted income. Therefore, taking into account the totality of the circumstances, including the assessee's age, background, retirement benefits, and supporting material placed on record, we are of the considered opinion that the addition of ₹10,33,012/- made under section 69 of the Act is not justified.

8. Accordingly, the same is directed to be deleted and the appeal of the assessee is allowed.

9. In the result, the appeal of the assessee is allowed.

**This Order pronounced in Open Court on**

**02/09/2025**

**Sd/-**  
**(DR. BRR KUMAR)**  
**VICE PRESIDENT**

Ahmedabad; Dated 02/09/2025  
TANMAY, Sr. PS

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad