

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

I.T.A. 747/Joh/2024
(Assessment year : 2019-20)

Vinod Garg, Jhadol, Sharda, Udaipur – 313 905 PAN : ANPG6950D	vs	Assistant Commissioner of Income-tax, Central Circle-1, Udaipur,Rajasthan
APPELLANT		RESPONDENT

I.T.A.748/Joh/2024
(Assessment year : 2019-20)

Popat Lal Garg, Budhar, Rishabhdeo, Udaipur, Rajasthan – 313 801 PAN : AEWPG2331N	vs	Assistant Commissioner of Income-tax, Central Circle-1, Udaipur,Rajasthan
APPELLANT		RESPONDENT

I.T.A. 736/Jodh/2024
(Assessment year : 2019-20)

Burhanuddin Bohra, 61, Boharwadi, Villange Bhinder, Vallabh Naga, Udaipur,Rajasthan-313 001 PAN : AXGPB4312F	vs	Assistant Commissioner of Income-tax, Central Circle-1, Udaipur,Rajasthan
APPELLANT		RESPONDENT

Assessee by : Shri Rajendra Jain, Advocate and

Raksha Jain, C.A.
Respondent by : Shri Brij Lal Meena, Addl.CIT-DR
Date of hearing : 20/08/2025
Date of pronouncement : 29/09/2025

ORDER

Per Anikesh Banerjee) JM):

All three appeals of different assesseees were preferred against the orders of the Commissioner of Income-tax Act (Appeals), Udaipur-2 [for brevity, 'Ld.CIT(A)'] for the assessment year 2019-20 passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act), date of order 26/07/2024. All three impugned orders are emanated from the orders of the Learned Assistant Commissioner of Income-tax, Central Circle-1, Uaipur (for brevity, 'Ld.AO'), passed under section 143(3) of the Act, date of order 26/02/2021 for ITA No.747 & 736/Jodh/2024 and 04/05/2021 for ITA No.748/Jodh/2024.

2. All the appeals are having same nature of facts and have a common issue and originated from the same search action. Therefore, we heard all the 3 appeals together and being disposed of by this consolidated order. **ITA No.747/Jodh/2024** is taken as lead case.

ITA No.747/Jodh/2024

3. The Ld.AR argued and filed a paper book which is containing pages 1 to 191 which is kept on record. The Ld.AR argued that the addition was made by the Ld.AO which was originated from the search action at Hyderabad and the cash was duly seized. The Ld.A invited our attention to assessment order for detailed description

of facts on pages 2 to 3, the relevant paragraph of the impugned assessment order are extracted below:-

"2. The facts of the case are that, on 05.09.2018, the GRP Inspector and RPF Inspector, Hyderabad Railway Station, Hyderabad and staff while conducting checking at Hyderabad Railway Station at 20:15 hours received credible information that suspected parcels were being transported by Hyderabad-Mumbai Express train No.17032 in SLR coach from Hyderabad to Mumbai. On receipt of the information, the police authorities rushed to Platform No.6 and found some parcels on the platform. In presence of one person by name Ramesh who was the representative of such parcels were brought to the inward parcel office of Hyderabad Railway Station. On opening the parcels, cash bundles which were mixed with LED lights were found packed in a carton box and also some cash bundles were found mixed with Chappals kept in a carton box. The cash bundles were counted and an amount of Rs.66,50,000/- was found. Since the illegal transportation of such huge amount of cash is against the rule and regulation, the total amount of Rs.66,50,000/- was seized by the police authorities and a cash was registered in Crime No.215/2018 u/s 420 IPC, Sec 102 Cr.PC dated 05.09.2018. A warrant u/s 132A of the IT Act, 1961 was issued by Principal Director of Income-tax (Inv.) Hyderabad to take possession of the unaccounted and untaxed cash from custody of the Inspector of Police, Railway Police Station, Hyderabad. Accordingly, the cash of Rs.66,50,000/- was seized by execution of Warrant u/s 132A on 11.09.2018. With reference to the letter dated 07.09.2018 received from the Inspector of Police, RPS, Hyderabad as per Remand Case Diary Sri Lalji, Manager of Mis Andhra Parcel Service, Osman Gunj, Hyderabad was mentioned as accused person (A1). The warrant of authorization u/s 132A of the IT Act, 1961 was issued in the name of Sri Lalji., Manager of M/s Andhra Parcel Service, Osman Gunj, Hyderabad. Accordingly, the cash of Rs.66,50,000/- was seized by executed of warrant u/s 132A on 11.09.2018. Subsequently, the following person claimed the amount of Rs.66,50,000/-

- | | |
|-----------------------------------|-----------------------|
| a. Sri Sampat Raj Himmatmaji Jain | Rs. 20,00,000/- |
| b. Sri Vinod Garg | Rs. 10,00,000/- |
| c. Sri Popat Lal Garg | Rs. 15,00,000/- |
| d. SriBurhanuddin Bohra | Rs.15,00,000/- |
| e. Sri Sathender Bagath | <u>Rs. 6,50,000/-</u> |

Rs.66,50,000/-

2.1 The details of income-tax Returns of the persons involved in the cash seizure of Rs.66,50,000/- are as under:-

S.No. Name of the person	Details of ITR filed		
	AY 2016-17	AY 2017-18	AY 2018-19
1. Sri Sampat Raj Himmatmaji Jain	Rs.2,58,120/-	Rs.3,73,000/-	Rs.3,91,410/-
2. Shri Govind Garg	Rs.2,69,900/-	Rs. 2,78,750/-	Rs.3,09,640/-
3. Shri Popat Lal Garg	Rs.2,88,840/-	Rs. 3,55,140/-	Rs.4,51,450/-
4. Sri Buhanuddin Bohra	Rs.3,22,430/-	Rs. 3,43,710/-	Rs.4,77,300/-
5. Si Sathender Bagath		Not filed	
6. Si Lalji Bhai Swarupaji Prajapati		Not filed"	

The Ld.AR further stated that during the recording of statement, the ITO, Ward-7(2)(3), Ahmedabad recorded statement u/s 131 of the Act of the assessee, which is at pages 32 & 33 of appraisal report and was duly provided to assessee. The relevant part of the statement recorded is extracted below:-

"Q.9 Do you have any documentary evidence that the cash of Rs 10.00.000 (out of cash of Rs 66.50.000 seized by the police shortes of Nampaly Rallway Police belongs to you and whether the cash seized is accounted in the books of account.

Ans. As I have slated in the above question do have any documentary evidence with reference to the cash of Rs 10.00.000 which belongs to me.

Q.10 As you have stated you have any documentary evidence in support to claim that the cash of Rs. 10.00.000 belongs to you. In this regard, please show cause why this amount of Rs. 10,00,000 should not be treated as your unexplained money in your hands in absence of any documentary evidence?

Ans. I again confirm that this amount of Rs 10,00,000/- belongs to me which is out of my savings for the past 20 years kept in the form of cash. The above amount was kept with Sri Lalji Prajapati for future need as and when required by me. It is requested that the above cash of Rs. 10,00,000/- is not to be treated as unexplained money since it is my saving amount only."

The Ld.AR further argued that the assessee during the assessment and appeal proceedings has made detailed statement related to source of cash which was seized from Hyderabad. The details of source of cash was duly explained and the affidavit was duly filed before the Ld.AO. But the Ld.AO had not rejected the said affidavit of the assessee and added Rs.10 lakhs as unexplained source of cash with the total income of the assessee. During the hearing before the bench, the Ld.AR relied on the detailed submissions made before the Ld.CIT(A) explained the source which is attached in the **paper book page 30**, which is reproduced below:-

"5. Appellant is doing civil contractor work and also reporting his income by filing returns every year. Wife of appellant is also having income from tailoring every year. Although her Income was always been below taxable limit, she did not file her ITR. Further, as provided in his statement appellant has got amount of Rs.6,00,000 in 2014 from his father as family settlement to spend on his future needs.

Copy of Settlement Note signed by Father of Appellant and other witness has been

enclosed herewith as Annexure-B.

6. Every Family do some savings for their children's studies, marriage and other emergency needs. Many middle class especially less educated families have a mind-set to save money in form of cash due to its ready availability at time of urgent needs.

7. Sources of Cash:-

Out of Rs. 10,00,000:-

Amount of Rs. 3,65,000 has been accumulated out of past saving from the hard earned money for last few years on which appellant has already paid tax by filing returns.

Amount of Rs. 6,00,000 received by Appellant from his Father during family settlement (Copy of Note enclosed as Annexure-B).

Amount of Rs. 35,000 is out of small savings of appellant's wife received by him in the form of petty Gifts.

To substantiate the above facts we are enclosing herewith computation of last 3 years as Annexure C.

The Cash in hand as on 31.03.2018 was Rs. 9,64,838, which is as per Statement of Affairs (Balance Sheet) of appellant. Further during the Financial Year 2018-19, the Appellant before 5th September, 2018, had already generated Cash up to Rs. 35,162/-that made it to Rs. 10,00,000. That fact related to source of cash Rs. 10,00,000 was also informed at time of Assessment proceedings.

To substantiate the above facts enclosing copy of Balance-Sheet for 2017-18 and 2018-19 as **Annexure-D.**"

4. The Ld.DR argued and fully relied on the order of the revenue authorities.

5. We heard the rival submissions and considered the documents available on the record. During the assessment proceedings, the Ld.AO added back Rs.10 lakhs with the total income of the assessee due to the cash was carrying from unexplained sources. The assessee was unable to explain the source of cash before the Ld. AO. The same issue was brought before the Ld.CIT(A). The Ld.CIT(A) limited the addition to the tune of Rs.8,75,000/-. The assessee regularly filed its return for last 10 years and stated that from family settlement and from savings of wife and from his own savings, the said amount was duly accumulated from year after year's savings. As a small business man, the assessee was not required to submit the details of cash balance in the return of income. But this cash was received through family settlement and from personal savings. The assessee submitted the affidavit which was not duly rejected during the assessment proceedings. Further, the appellant filed the affidavit which was neither rejected nor was adverse material brought on record in contrast to the facts narrated in the affidavit. The Ld.AR respectfully relied on the order of **Hon'ble Apex Court in the case of Mehta Paraikh & Co vs CIT (1966) 330 ITR 181 (SC)**. It is further noted that the revenue authorities had neither disproved the documentary evidence on record no brought on record any material contrary to the submission and the evidence furnished by the assessee. We find that the assessee had explained the legitimate source of cash in hand with credible evidence. Therefore, the addition made by the Ld.AO and sustained by the Ld.CIT(A) is unjustified. Accordingly, the addition confirmed by the Ld.CIT(A) to the extent of Rs.,.8,75,000/- is deleted.

6. In the result, the appeal of the assessee bearing **ITA No. 747/Jodh/2024** is allowed.

7. The assessee has taken additional ground and related to the legal issue for jurisdiction for completion of assessment u/s 143(3). As the merit of the case is decided in favour of the assessee, the legal grounds are only for academic purpose. The assessee has liberty to take this to a proper forum.

ITAs No.748 & 736/Jodh/2024

8. The facts and circumstances in these appeals are identical to the appeal in ITA No.747/Jodh/2024, which we have already decided. Therefore, the decision arrived at above shall apply mutatis mutandis to these appeals also.

9. In the result, the appeals of the assessee bearing **ITA No. 748 & 736/Jodh/2024** are allowed.

10. As a result, all the appeals filed by the assessee bearing **ITAs 747, 748 & 736/Jodh/2024** are allowed.

Order pronounced in the open court on 29th day of May, 2025.

Sd/-

sd/-

(DR. MITHA LAL MEENA)

(ANIKESH BANERJEE)

ACCOUNTANT MEMBER

JUDICIAL MEMBER

Jodhpur, दिनांक/Dated: 29/09/2025

Pavanan

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., जोधपुर /DR, ITAT,
JODHPUR
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, JODHPUR