



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।

**IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"  
RAJKOT BENCH, RAJKOT  
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

**आयकरअपीलसं./ITA No.544/RJT/2025**

**निर्धारणवर्ष / Assessment Year: (2019-20)**

**(Hybrid Hearing)**

KETKIBEN SAMIRBHAI JANI 11/12 CHAMBER BUILDING,, JAISHREE TALKIES ROAD, NEAR SARDAR PATEL BHAVAN, JUNAGADH. 362001,	Vs.	ITO, Ward-1 Bhoothnath Chambers, College Road, Junagadh 362001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABUPJ1530B		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Samir Jani, Ld. AR

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

**Date of Hearing : 18/09/2025**

**Date of Pronouncement : 23/10/2025**

**आदेश / ORDER**

**Per, Dr. Arjun Lal Saini AM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2019-20, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 18/08/2025, which in turn arises out of an order passed by the Assessing Officer dated 21/03/2024, u/s 147 of the Income Tax Act, 1961.



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

1. *The order passed by the Ld. CIT (Appeals), NFAC dated 18.08.2025 is bad, illegal and in violation of principals of natural justice. The assessee has right from day one requesting for a copy of Satisfaction Note of A.O. of searched person and Jurisdictional A.O along with a copy of incriminating document and an opportunity for cross examination, which has never been provided. Ignoring this facts, the Ld. CIT (Appeals) has confirmed the order u/s. 147 dated 21.03.2024 which is prayed to be quashed.*
2. *Notice u/s. 148 has been issued by J.A.O. on 31.03.2023 and not by Faceless authorities. The Ld. CIT (A) has erred in passing the order without even a reference to this contention. The same is bad in law.*
3. *The Ld. CIT (Appeals) has ignored the fact that there is no live nexus between information and reassessment for escapement of income as the appraisal report of the wing stated Mr. Manish Parmar as a Buyer and not the assessee. The addition is prayed for deletion.*
4. *The Ld. CIT (Appeals) has erred in confirming the addition made u/s 69A without any evidence found from the searched person for cash payment. Addition is made on account of difference in SRO value and documented value which is bad in law and prayed for deletion. The application of S.69A is erroneous under the facts.*
5. *The Ld. CIT (Appeals) has erred in confirming the addition made u/s. 69A inspite of the fact submitted before Ld. Assessing Officer and Ld. CIT (Appeals) that the assessee does not maintain regular books of accounts. The same is prayed for deletion.*
6. *The Ld. CIT (Appeals) has erred in ignoring the fact and supporting to the contention that the assessee has not contributed any money for purchase of Immovable Property. It is a social security arranged by the son for his mother. The addition is prayed for deletion.*
7. *The assessee reserves her right to add, amend, alter or modify any of the Grounds at or before the time of final hearing.*

3. The facts of the case which can be stated quite shortly are as follows: In this appeal, the assessee has challenged the addition of Rs. 1,68,667/- made u/s 69A on the ground that there is no valid incriminating material or direct evidence to prove that the assessee made any cash payment (on-money) in relation to the purchase of property. In this case Return of Income for the year under consideration was e-filed by the assessee, against the notice, under section 148 of the Act, declaring therein total taxable income of Rs. 9,82,560/-. A search and seizure action were conducted on 10.02.2022 in the case of Shivalik, Shilp and Sharda Group. During the course of search and seizure action, the premise of Shri Manish Brahmhatt, Bhaumik Panchal who is a real estate broker was also covered u/s 132 of the Act. The digital data that has been imaged and seized from



the premise of Shri Manish Brahmhatt, Bhaumik Panchal (Premise T-15) have been inventoried as Annexure A-2. A word file with the name "FLORIS 32.docx" containing M.O.U. is found from the retrieval of the forensic backup of the digital devices found from the office premise of Manish M Brahmhatt situated at 603, Orbit, Rajpath Rangoli Road, Ahmedabad. On perusal of the details made available to the assessing officer it was found by the assessing officer that assessee had paid on money in cash of Rs. 5,06,000/- for purchase of the plots/office/showrooms/flat of "Sky City Floris. Therefore, a show cause notice, was issued by the assessing officer, to the assessee and the assessee has been asked to show cause as to why unaccounted cash payment as discussed above (i.e. Rs. 5,06,000/-for the year under consideration) should not be treated as income in assessee's hands under relevant section of Income Tax Act. The assessee has been asked to furnish his explanation in the matter. In response to the notice of the assessing officer, the assessee has submitted a written reply, before the assessing officer stating that the property in question was purchased with two other partners meaning the share of the assessee in the said property is limited to 1/3rd only. The assessee has also contended that she had not done the cash transactions.

4. The assessing officer rejected the contention of the assessee and held that assessee's share is limited to 1/3rd only, hence the share of assessee in paying on-money was restricted to Rs. 1,68,667 (1/3rd of 5,06,000) and made addition in the hands of the assessee at Rs. 1,68,667/-, under section 69A r.w.s. 115BBE of the Act.

5. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the 1d CIT(A), who has confirmed the action of the assessing officer. The 1d.CIT(A) held that no source of the alleged cash payment has been explained by the assessee, and no rebuttal evidence has been placed on record to



counter the seized material or to support her claim that no on-money payment was made. Therefore, Id.CIT(A) held that assessing officer has rightly invoked the provisions of section 69A and treated the cash payment of Rs. 1,68,667/- as unexplained money, being the assessee's share of the unaccounted on-money paid towards the purchase of immovable property. Feeling aggrieved by the order of Id CIT(A), the assessee is in appeal before this Tribunal.

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 Id CIT(A) and other materials brought on record. The Id. Counsel for the assessee, vehemently argued that the assessee has challenged the addition of Rs. 1,68,667/- made u/s 69A of the Act, on the ground that there is no valid incriminating material or direct evidence to prove that the assessee made any cash payment in relation to the purchase of property. It was further argued by Id. Counsel that the seized documents referred to by the assessing officer mentioned the name of a different individual, that is, Manish Parmar, and that the documents relied upon are unsigned and therefore lack evidentiary value. The Id.Counsel also stated that assessee has also denied making any on-money payment and has claimed that she held only 1/3rd share in the said property. On the other hand, the Ld. 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.

7. I have considered the submissions of both the parties and noted that entire “on money” cannot be the profit of the assessee, therefore, I am of the view that profit element out of Rs. 1,68,667/- should be taxed in the hands of the assessee.



Therefore, considering the facts and circumstances of the case, and taking into account smallness of the amount of Rs. 1,68,667/-, I direct the assessing officer to compute the net profit @ 8% of Rs. 1,68,667/-, which comes to Rs.13,493/-. I also direct the assessing officer to tax the amount of Rs.13,493/-, applying the normal rate of income tax and not under section 115BBE of the Act. Since, I have adjudicated the issue involved in assessee`s case, taking into account, the peculiar facts and circumstances, and smallness of the amount, as narrated above, therefore, it is made clear that instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year.

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

**Order pronounced in the open court on 23/ 10/ 2025.**

Sd/-  
**(Dr. A. L. SAINI)**  
**ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 23/10/2025

**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