



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

आयकरअपीलसं./ITA No. 593/RJT/2025  
(निर्धारणवर्ष/Assessment Year: (2012-13))

Indo Hi Tech Industries Bhaktinagar Station Plot Street No. 5/10, Near Ranjit Transport Rajkot (Gujrat)- 360001	Vs.	The ITO Ward – 1(2)(1) IT-Office, Near Aayakar Bhawan, Vatiaka, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAFFI8696B</b>		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : None  
Respondent by : Adjournment Application  
Date of Hearing : 22/10/2025  
Date of Pronouncement : 23/10/2025

**ORDER**

**Per.Dr. Arjun Lal Saini, Accountant Member:**

The present appeal has been filed by the Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), National Faceless Appeal, Centre (NFAC), [hereinafter referred to as "CIT(A)"] dated 05.08.2025 arising in the matter of assessment order passed u/s. 147 r.w.s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2012-13.

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

*1. Re-opening the assessment by issue of notice u/s. 148 of the Act, which is bad in law and without appropriate jurisdiction.*



2. *Not taking cognizance of the submission of the appellant that the firm has not done any business.*
3. *Contending that the transactions with National Shroff are pertaining to the appellant.*
4. *Making addition of Rs. 2,47,080/- on account of alleged 8% on the transactions of National Shroff.*
5. *All the grounds of appeal raised hereinabove are without prejudice to one another.*

*The appellant craves for leave to add, alter, or withdraw one or more grounds of appeal.*

3. None appeared on behalf of assessee. however, when the case is called for hearing, I note that the group case relating to M/s. National shroff have been remitted back to the file of the assessing officer who is principal Angadia (National Shroff). This bench has also remitted back all the appeals relating to beneficiaries of M/s. National shroff to the file of assessing officer for fresh assessment and adjudication. Therefore, I note that the assessee under considering is the beneficiary of M/s. National shroff company. Therefore, I also set-aside the order of Ld. CIT(A) and remit the issue back to the file of assessing officer for fresh assessment and adjudication for that I relied on the judgement of ITAT Rajkot in the case of National Shroff & company in IT(SS)A Nos. 118 to 125 /Rjt/2018, for Assessment Year 2008-09 to 2015-16, where in the Tribunal held as for follow:

*“ 12. We note that issue under consideration in case of assessee`s appeal is squirely covered, by the order of the Coordinate Bench, Rajkot, in the case of Karim K. Makhani, IT(SS)A Nos.103-108/RJT/2017, wherein, Tribunal held as follows.*

*“14. Therefore, we have heard Learned CIT-DR for the Revenue 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.*

*15. In these appeals some of the assessment orders were passed by the Assessing Officer under section 143(3) read with section 263 of the Act and some of the assessment orders were passed by the Assessing Officer under section 153A r.w.s. 143(3) of the Income Tax Act, 1961 (in short 'the Act').The main ground of appeal by the department (Revenue) is pertaining to assailing and*



deletion of 70% of additions made on account of unexplained cash deposits. The assessee, on the other hand is assailing the confirmation of 30% of cash deposits, in addition to other legal grounds regarding not considering assessee, as an Angadia, not adopting peak balance in the bank account, not giving credit/ benefit of telescopic effect of intangible addition and not considering decision relied upon by the assessee etc. The Learned CIT- DR for the revenue, argued before us that in the eyes of judiciary, the Angadiya are couriers who deal with 'container' and not with 'content'. Learned CIT- DR pointed out that in many decisions, it has been held that "Angadiya" is dealing with "Container" and not with "Contents". Similar contentions of Angadiyas are also seen in High Court decisions on related matters, viz. **Kanchanlal Trikamlal Patel vs Shyamal Ghosh (1975) 16GLR675**, wherein the Angadiyas have submitted that they are 'couriers. These legal positions imply that 'Angadiya' as a courier cannot deal in cash/ precious metal by transferring it in its books of account as Cash in hand/ goods in stock and deliver it through "hawala" at other locations in lieu of commission. The 'Angadiya' can only accept 'parcel' or 'container' and has no right to deal with the 'content.' In the assessee's case under consideration, the assessee has deposited the cash in his own bank account and withdraw the cash from his own bank account, therefore the assessee has ownership of all the transactions in his bank account. Hence, the assessee under consideration cannot be treated as 'Angadiya'. Besides, the shroff works on accounted bill of sales and accounted payment by seller. Therefore, assessee under consideration is not a shroff also. Thus, ld CIT- DR pointed out that assessee is a hawala operator (businessman) therefore, addition made by the assessing officer should be sustained.

16. Since none appeared on behalf of the assessee, before the Bench to argue, the case, on merit. Therefore, Bench is not aware about the essential facts, such as maintenance of books of accounts by the assessee, cash book, purchase book, sales book, Bank book, Journal book, stock register etc., to understand about the ownership of the transactions of the assessee. Therefore, we do not wish to make any comments on the merits of the grounds raised by the assessee and revenue and argued by ld. CIT -DR for the revenue.

17. We note that assessing officer, made addition on account of Commission income as well as on account of cash deposited in the bank account treating the assessee as a businessman. For example, in ITA No. 210/Rjt/2018, for assessment year 2008-09, assessing officer framed assessment under section 143(3) r.w.s. 263 of the Act and Assessing Officer made following addition:

- i. Addition an account of commission income of Rs. 8,61,446/-.
- ii. Addition of peak credit in bank account of Rs. 46,50,353/-.

On appeal, before Ld. CIT(A), the assessee did not press ground relating to commission income of Rs. 8,61,446/-, therefore, Ld. CIT(A) dismissed the same. About addition of Rs. 46,50,353/-, made by the assessing officer, on account of peak investment in respect of undisclosed bank accounts, since the assessee did not press this ground before the Ld.CIT(A), hence Ld. CIT(A) dismissed the same. In respect of addition made by the assessing officer an account of separate peak investment, in respect of each undisclosed bank account, instead of consolidated peak, of all bank accounts together, the Ld. CIT(A) noted that assessee submitted calculation of peak of Rs. 35,99,721/- and Ld.CIT(A) in turn, by following the judgement of Hon 'ble Karnataka High Court, in the case of Parag Kotecha 61 DTR 19 and Co-ordinate Bench of Kolkata, in the case of Golam



*Mostafa, ITA No. 382 and 405/Kol/2012, directed the assessing officer to restrict the addition of consolidated peak investment of Rs. 35,99,721/-. During the appellate, proceedings, the assessee also prayed for seeking credit of intangible addition made in the year under consideration, however, the Ld. CIT(A) did not accept the argument of the assessee, as the assessee has not accepted the addition made of the assessee, as the assessee has not accepted the addition made in his case, either in this year or in earlier year. The assessee has agitated the matter before 'Higher Form' and hence unless and until the matter is finalized, the credit of the disputed addition cannot be given, therefore, the Ld. CIT(A) dismissed the same.*

*In these cases, Ld. PCIT has exercised his jurisdiction u/s 263 of the Act, and directed the assessing officer to verify the source of cash deposited in the bank accounts, which have been left out, during the course of original assessment proceedings. Accordingly, assessing officer made addition of peak credit in individual bank accounts. However, on further appeal by assessee, before the Ld. CIT(A), the Ld. CIT(A), directed the assessing officer to make the addition as per consolidated peak, (not individual, bank peak) investments. Aggrieved by this action of the ld CIT(A), the revenue is in appeal before this Tribunal.*

*18. From the above discussion, it is vivid that ld CIT(A) sustained the addition on account of Commission income of the assessee, as well as addition on account of cash deposited in the bank account, treating assessee, as a businessman. In our view, both the additions should not be made in the hands of the assessee by the Ld CIT(A). If the Revenue authorities, treat the assessee, as a businessman, addition on account of commission income, should not be made, in the hands of the assessee, therefore, we direct the ld. CIT(A) to delete the addition made by the assessing officer on account of 'Commission income', treating the assessee, as Angadia.*

*19. We note that it is the contention of the assessee that he was only a commission agent and derives commission for transfer of money on behalf of the manufacturers of tiles and ceramics of Morbi. However, no proof in this regard was submitted by him viz., who was the manufacturer who had supplied the goods, name of the dealer who had remitted the money, confirmation from the manufacturer that the cash deposits actually belonged to them, etc. When there are cash deposits in the said bank accounts, it is obvious that the explanation as to the source of such cash deposits has to be furnished by the assessee. Merely by stating that somebody's cash was deposited which assessee would withdraw and hand it to so-called manufacturers, does not exempt the onus cast upon the assessee to prove the source of such huge cash deposits. The ld CIT(A) has co-terminus power, as that of assessing officer, however, ld CIT (A) failed to ask the assessee, name of the dealer who had remitted the money, confirmation from the manufacturer that the cash deposits actually belonged to them. The ld CIT(A) also failed to ask the assessee to furnish the list of the persons whose cash was remitted to assessee's bank accounts and also list of the beneficiaries. The ld CIT(A) failed to do so. Had the assessee furnished the list of the persons, whose cash was remitted to assessee's bank accounts, the revenue authorities, would have reopened the assessment of those persons whose cash was deposited in the assessee's bank account. The ld. CIT(A) also failed to ascertain the source of the cash deposits, therefore, in the absence of any explanation as to the source of cash deposits, we do not wish to comment on the merits of the grounds raised by the revenue and assessee. Besides, as noted above, assessee did not appear before us and did not explain about the essential facts, such as maintenance of books of accounts by the assessee, cash book, purchase book, sales book, Bank book, Journal book, stock*



register etc., to understand and to ascertain about the ownership of the transactions of the assessee, whether assessee is Angadia or a businessman.

20. We also note that during the assessment proceedings, there was a non-co-operation, on the part of the assessee, and this non-co-operative attitude of the assessee, is proved from the facts narrated by the assessing officer, in para number one of the assessment order, which reads as follows:

*“A search action u/s 132 of the Act, was carried out at the premises of the assessee on 17.01.2013. Consequent to search u/s 132 of the Act, proceedings u/s 153A of the Act was initiated by issuing notice, dated 30.07.2014, which was duly served upon the assessee. The assessee was required to file return of income within 30 days of the receipt of the notice. In response to notice, the assessee had not filed his return of income. Therefore, a notice u/s 142(1) was issued on 16.01.2014, requesting the assessee to file his return of income. Since no return was coming forth, a show cause notice for initiation of prosecution proceedings was issued on 23.07.2014. Again, no return was coming forth, therefore, the assessee was issued one final show -cause notice for initiation of prosecution proceedings, vide notice dated 24.04.2014. However, despite these notices and reminders, no return has been filed. Therefore, a final notice along with show- cause notice was issued on 02.03.2015, asking the assessee to show -cause as to why his assessment should not be completed ex-prate, on the basis of material available on record.”*

21. Therefore, we note that the assessing officer issued several notices to the assessee, however, at the end, the assessee submitted, return of income on 16.03.2015, and assessment order was framed only after six days on 23.03.2015, therefore, we find that assessment order was framed in haste, which is against the principle of natural justice, and this way, the assessing officer, could not get proper opportunity to examine the assesses facts, by issuing notices to various beneficiaries involved with the assessee. Therefore, we are of the view that entire matter should be remitted back to the file of the lower authorities for fresh adjudication on facts and merit.

22. In these circumstances, we set aside the order of the learned CIT(A) and remit the issue back to the file of the ld. CIT(A) to ascertain the above facts by appointing Departmental Inspector on the business premises of the assessee/ by issuing notices to various beneficiaries, or by calling a remand report from the assessing officer in respect of the above facts, and then, adjudicate the issue in accordance with law. Therefore, we deem it fit and proper to set aside the order of the ld. CIT(A) and remit the matter back to the file of the ld. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, all appeals of the assessee and all appeals of Revenue, are treated as allowed.

23. For the sake of convenience, the grounds as well as the facts narrated in Revenue`s appeal in IT(SS)A No.103/RJT/2017, for assessment year 2007-08, have been taken into consideration, for deciding the appeals of Assessee and Revenue. Since, we have adjudicated the issue by taking the “lead” case in IT(SS)A No.103/SRT/2017 in the case of Karim K. Makhani, for A.Y 2007-08 and the same identical and similar facts are involved in other remaining appeals of assessee and revenue, therefore, our instant adjudication shall apply mutatis mutandis to other appeals of assessee and revenue, also.



24. *In the combined result, all appeals filed by the Revenue, and all appeals filed by the Assessee, are allowed for statistical purposes, in above terms.”*

13. *Therefore, respectfully following the judgement of the Co-ordinate Bench (supra), we deem it fit and proper to set aside the order of the ld. CIT(A) and remit the matter back (assessee appeal and revenue`s appeal) to the file of the assessing officer to adjudicate the issue afresh on merits.*

14. *For statistical purposes, the appeal of the assessee and revenue are treated as allowed.*

*A copy of the instant common order be placed in the respective case file(s).”*

4. I note that assessee is one of the beneficiaries of M/s. National Shroff & Co. Therefore, respectfully following the judgment of the co-ordinate bench of ITAT Rajkot, in the case of National shroff & Co. (supra), I also set-aside the order of the Ld. CIT(A) and remit this issue back to the file of the Assessing Officer fresh adjudication.

5. In the result, appeal filed by the assessee is allowed for statistical purpose.

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

**Sd/-**

**(DR. A. L. SAINI)  
ACCOUNTANT MEMBER**

राजकोट/Rajkot  
दिनांक/ Date: 23/10/2025

**Copy of the order forwarded to:**

The assessee  
The Respondent  
CIT  
The CIT(A)  
DR, ITAT, RAJKOT  
Guard File

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot

