

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.51/SRT/2018

Assessment Year: 2006-07

(Hybrid hearing)

Assistant Commissioner of Income-tax, Vapi Circle, Fortune Square-II, 7 th Floor, Room No.704, Daman Road, Chala, Vapi--396 191	बनाम/ Vs.	M/s Payal Properties Pvt. Ltd. Plot No. C-7/67, Fortune Park, Galaxy, N.H. 8, GIDC, Vapi-396 195
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AACCP 0053 H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

प्रत्याक्षेप सं /CO No.05/SRT/2021

(A/o ITA No.51/SRT/2018/(AY 2006-07)

M/s Payal Properties Pvt. Ltd. Plot No. C-7/67, Fortune Park, Galaxy, N.H. 8, GIDC, Vapi-396 195	बनाम / Vs.	Assistant Commissioner of Income-tax, Vapi Circle, Fortune Square-II, 7 th Floor, Room No.704, Daman Road, Chala, Vapi--396 191
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AACCP 0053 H		
(co-objector)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by	Shri A. Gopalakrishnan Aiyar, CA
राजस्वकी ओर से /Respondent by	Shri Mukesh Jain, CIT-DR
सुनवाई की तारीख/Date of Hearing	16/09/2025
उद्घोषणा की तारीख/Date of Pronouncement	30/10/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the revenue and Cross Objection (CO) by the assessee therein emanate from the order passed under section 250 of the Income-tax

Act, 1961 (in short, 'the Act') dated 14.11.2017 by the Commissioner of Income tax(Appeals)-Valsad [in short, 'the CIT(A)'] for the assessment year (AY) 2006-07, which in turn arises out of assessment order passed by the Assessing Officer (in short, 'AO') u/s. 143(3) r.w.s. 254 of the Act on 30.03.2016.

2. Grounds of appeal raised by the Revenue are as under :

"i) On the facts and in the circumstances of the case, the Ld. CIT(A) erred in deleting the protective addition of Rs.3.95 crore made in the case of M/s I.B. Enterprises despite the fact that an appeal of M/s I.B. Enterprises for addition of Rs.3.95 Crore made on substantive basis is pending before ITAT and whose decision is pending and the matter has a direct bearing in this case.

ii) On the facts and circumstances of the case, the Ld. CIT(A), erred by deleting the protective addition of Rs.1.45 crore made in the case of M/s Dharmesh Developers despite the fact that the Ld.CIT(A) has deleted the addition of Rs.1.45 Crore made on substantive basis and the department has not filed further appeal before ITAT but this matter has direct bearing in this case.

iii) The appellant craves to add, modify or alter any grounds during the course of appeal proceedings."

2.1 On service of notice of appeal, the assessee filed CO raising following grounds:

"1. On appreciation of facts and circumstances of the case and law, the Learned Commissioner of Income-tax (Appeals) has rightly deleted the protective addition of Rs.3.95 crore made in the case of M/s I.B. Enterprises.

2. On appreciation of facts and circumstances of the case and law, the Learned Commissioner of Income-tax (Appels) has rightly deleted the protective addition of Rs.1.45 crore made in the case of M/s Dharmesh Developers.

3. On appreciation of facts and circumstances of the case and law, the Learned Commissioner of Income-tax (Appeals) has rightly allowed the claims of the respondent company and/or deleted the additions made by the Learned Assessing Officer after considering all submissions/materials produced before him or the learned assessing officer during the course of assessment proceedings. It is therefore prayed that the order of the Learned Commissioner of Income-tax (Appeals) be upheld.

4. The respondent craves to add, amend, modify or alter the above grounds of cross objections at any stage of appellate proceedings.

5. The respondent humbly prays that the cross objection be accepted into and the appeal filed by the petitioner be dismissed.”

3. Brief facts of the case are that the assessee filed its return of income on 31.12.2006 declaring total income at Rs.40,85,970/-. The case was selected for scrutiny by issuing notice u/s 143(2) of the Act on 13.12.2007. The assessment was completed u/s 143(3) on 30.12.2008 determining total income at Rs.6,15,08,925/-. The AO had added Rs.3.95 Cr. and Rs.1.45 Cr. on account of payments made to M/s I.B. Entrprises and M/s Dashmesh Developers respectively on protective basis. The CIT(A) confirmed both the additions. On further appeal, the ITAT restored back all issues for fresh adjudication to AO. In the set aside order, AO again added Rs.3.95 Cr. and Rs.1.45 Cr. to the total vide order u/s 143(3) r.w.s. 254 dated 30.03.2016. On further appeal, the CIT(A) deleted both the additions which had been made on protective basis. He observed that even the fate of substantive additions could not lead to any conclusion for additions in case of assessee. Aggrieved, the revenue has filed the present appeal before the Tribunal.

4. The Ld. CIT-DR supported the order of AO and filed a copy of the ITAT order in case of Shri Amin Ibrahim Jaka (Prop. M/s I.B. Entrprise) in ITA No.1215/Ahd/2014 dated 25.03.2025, wherein the appeal of the assessee was dismissed and order of the Ld.PCIT u/s 263 of the Act was upheld.

5. On the other hand, Ld. AR supported the order CIT(A). He has also submitted copy of the Tribunal order in ITA No.1215/Ahd/2014 (supra) where the Tribunal dismissed the appeal of Shri Amin Ibrahim Jaka (Prop. M/s I.B. Enterprise). He also filed copy of CIT(A)-4, Vadodara who has also confirmed the substantive addition of Rs.1.45 Cr. in case of M/s Dashmesh Developers in appellate order No.CAB/4-31/2014-15 dated 31.03.2016. He submitted that it had attained finality because no appeal has been filed by revenue against the appellate order. Hence, both substantive additions are confirmed and therefore, the protective additions are required to be deleted.

6. We have heard both the parties and perused the materials available on record. We have also gone through the orders of the Tribunal and the CIT(A) in case of Shri Amin Ibrahim Jaka (supra) and the order of CIT(A) in case of M/s Dashmesh Developers in Appeal No. CAB/4-31/2014-15 (supra). Both Ld. CIT-DR and Ld. AR have agreed that the substantive additions in the hands of M/s I.B. Enterprise and M/s Dashmesh Developers have been confirmed by the Tribunal and CIT(A) respectively. Therefore, there is no basis for confirming the protective additions made by the AO in the present case of the appellant. We do not find any infirmity in the order of CIT(A), which we confirm. Accordingly, grounds of revenue are dismissed.

7. In the result, appeal of revenue is dismissed.

CO No.5/SRT/2021 (AY 2006-07)

7. Since the appeal filed by the revenue against the order of Ld. CIT(A) is dismissed, the CO No.05/SRT/2021 of the appellant does not require adjudication.
8. In the result, CO of assessee is also dismissed as infructuous.
9. In combine result, appeal of revenue is dismissed whereas CO of assessee is dismissed as infructuous.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963
on 30/10/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

सूरत /Surat

दिनांक/ Date: 30/10/2025

Dkp Outsourcing Sr.P.S*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- **अपीलार्थी/ The Appellant**
- **प्रत्यर्थी/ The Respondent**
- **आयकर आयुक्त/ CIT**
- **आयकर आयुक्त (अपील)/ The CIT(A)**
- **विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT**
- **गार्ड फाईल/ Guard File**

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत