



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट  
**IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"  
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.413/RJT/2025  
निर्धारणवर्ष / Assessment Year: (2017-18)  
*(Hybrid Hearing)*

Sarjan Structure, Shyam Shikhar Complex, Liliya Road, Amreli (Gujarat)– 365601	Vs.	The DCIT/ACIT-2(1) Aayakar Bhawan, Race Course Ring Road, Rajkot (Gujarat) – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ACOFS8085K</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Ms. Devina Patel, Ld. AR  
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

**Date of Hearing** : 04/09/2025  
**Date of Pronouncement** : 31/10/2025

**आदेश / ORDER**

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

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, 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 28/02/2025, which in turn arises out of an order passed by the Assessing Officer dated 29/12/2019, u/s 143(3) of the Income Tax Act, 1961.

2. Grievances raised by the assessee, which, being interconnected, will be taken up together, are as follows:

1. *The learned ADDL/JCIT(A)-1, Visakhapatnam erred in dismissing the appeal of the Appellant ex-parte.*



*2. On merits, the learned ADDL/JCIT(A)-1, Visakhapatnam erred in confirming the action of the DC/ACIT Circle-3(1), Rajkot in making addition of Rs.1,08,048/-by way of alleged excess liability towards a sundry creditor, M/s Shivom Construction Pvt. Ltd.*

*3. On merits, the learned ADDL/JCIT(A)-1, Visakhapatnam erred in confirming the action of the DC/ACIT Circle-3(1), Rajkot in making addition of Rs. 8,02,290/- by disallowing brick purchases made from various parties.*

*4. The assessee craves leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal.*

3. The appeal filed by the assessee for Assessment Year 2017-18, is barred by limitation by 49 days. The assessee has moved a petition requesting the Bench to condone the delay. I have gone through the petition for condonation of delay, and the sufficient cause explained by the assessee, in the petition for condonation of delay. Ms. Devina Patel, the learned Counsel for the assessee adverted my attention to the reasons for condonation of delay and urged for a benign view and sought condonation of delay of 49 days in filing the appeal before this Tribunal. However, learned DR for the revenue, opposed the prayer of the assessee for donation of delay. A perusal of the reasons and sufficient cause explained by the Id. Counsel for the assessee, gives me an impression of existence of mitigating circumstances to enable me to exercise my discretion in favour of the assessee. Accordingly, the delay is condoned in filing the appeal.

4. Succinctly, the factual panorama of the case is that assessee before me is a partnership-firm and e-filed return of income for the assessment year 2017-18, on 27.10.2017, declaring total income of Rs. 18,74,470/-, which was processed u/s 143(1) of the Act, by CPC accepting returned income. Subsequently, the assessee's case was selected for complete scrutiny through CASS and consequently, notice u/s 143(2) of the Act was issued on 09/08/2018 and duly served upon the assessee. Thereafter, notice u/s 142(1) of the Act dated 24/05/2019, 16/08/2019 and 31/10/2019 were also issued and served upon the



assessee calling for details. The assessee- firm was engaged in the construction business of Contraction, Supply of Construction materials, operation and Maintenance and other businesses. During the scrutiny proceedings, on verification of the ledger account of Brick Purchase, assessing officer noticed that there has been apparent discrepancy like bill number and date has not been found in chronological order. Therefore, this Brick Purchase account appears to be not genuine and fabricated. So, assessing officer issued a show caused notice dated 27/12/2019 to assessee to explain as to why amount Rs. 8,02,290/- on account of Bricks purchase should not be disallowed and added to total income. In response, assessee submitted that it has booked bricks purchase expenses based on invoice copy received from the supplier, it is not voucher- based cash expenses. However, assessing officer rejected the above contention of the assessee and made an addition of Rs. 8,02,290/- on account of disallowance of bricks purchase expenses and added back to the total income of the assessee.

5. The assessing officer, during the scrutiny proceedings, further on verification of schedule -B of audited balance sheet for F.Y. 2016-17 relevant to A.Y. 2017-18, noticed that assessee has shown sundry creditor against the name Shivom Construction Pvt Ltd at Rs. 9,37,507/-. However, on perusal of contra confirmation obtained from assessee, it is revealed that the closing balance as on 31.03.2017 shown by Shivom Construction Pvt. Ltd is at Rs. 8,29,450/-. Therefore, the assessee was show caused vide notice dated 27/12/2019, as to why this excess liability of Rs. 1,08,048/- should not be disallowed and added back to the total income of the assessee. In response assessee stated that Sundry creditors balance of Shivom Construction Pvt Ltd of Rs. 9,37,507/- is exactly matching with their books of account hence there is no excess liability. However, the assessing officer rejected the above reply of the assessee and held that there is excess liability of Rs. 1,08,048/-, ( Rs. 9,37,507- Rs. 8,29,450),



which has been shown by the assessee, which is not allowable and hence, assessing officer added back the same to the total income of the assessee.

6. Aggrieved by the above two additions made by the assessing officer, the assessee, carried the matter in appeal before the learned CIT(A) who has confirmed the action of the assessing officer. As the appeal preferred by the assessee did not find favour with the Commissioner of Income Tax (Appeals), who confirmed the order of the Assessing Officer in this regard. Calling into question the said order, the assessee preferred appeal before this Tribunal.

7. I 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. Ms. Devina Patel, the learned Counsel for the assessee, begins by pointing out that in respect of both these additions, the required details and relevant papers/documents have been submitted by the assessee, during the assessment proceedings, therefore addition should not be made in the hands of the assessee. Without prejudice to the above, alternatively, the learned Counsel argued that due to smallness of the amount, a reasonable disallowance, ( estimated addition) may be made in the hands of the assessee. On the other hand, learned DR for the Revenue did not have any objection, if a reasonable estimated addition may be made in the hands of the assessee, in respect of both the additions and he pointed out that at least 15% estimated addition may be made in the hands of the assessee to protect the interest of the revenue. I note that the main grounds of the assessee are that the Id. CIT(A) erred in sustaining the addition of Rs. 8,02,290/- by disallowing bricks purchases from various parties and Id.CIT(A) has also erred in sustaining the addition of Rs. 1,08,048/- by way of excess liability in respect of one party,



M/s Shivom Construction Pvt. Ltd. The total of both the additions come to Rs.9,10338/- ( Rs. 8,02,290 + Rs. 1,08,048). I have gone through the assessment order and noticed that during the assessment proceedings, the assessee has submitted a plethora of evidences to justify these two claims. However, the assessing officer rejected the documents and evidences submitted by the assessee. I further note that learned Counsel for the assessee as well as learned DR for the revenue, both have agreed that due to smallness of the amount an estimated addition may be made in the hands of the assessee, to meet the end of Justice. I therefore take into account all these peculiar facts, I note that it would be fair to restrict the impugned disallowance @ 10% of Rs.9,10,338/-, which comes to Rs.91,033/-. Therefore, the assessing officer is directed to make the addition in the hands of the assessee to the tune of Rs. Rs.91,033/-. It is made clear that instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year.

8.This, assessee's appeal is partly allowed in above terms.

**Order pronounced in the open court on 31/ 10/ 2025.**

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

Rajkot

//True Copy//

दिनांक/ Date: 31/10/2025

**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