



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.500/RJT/2025

निर्धारण वर्ष/Assessment Year : 2020-21

Jashvantiben Manojbhai Makwana, 120 Gujrat Housing Board, Bapa Sitaram Chowk, Kothariya, Rajkot, Rajkot – 360022 (Gujarat)	बनाम/ Vs	Income Tax Officer, Ward-1(1)(1), Income Tax Department, Race Course, Ring Road, Rajkot (Gujarat) – 360001
स्थायी लेखासं./जी आइ आरसं./PAN/GIR No.: FCZPM0142M		
(अपीलार्थी/Assessee)		(प्रत्यर्थी/Respondent)

निर्धारितीकी ओरसे/Assessee by : Shri Sunny Mehta, Ld. AR
राजस्वकी ओरसे/Revenue by : Shri Dheeraj Kumar Gupta, Ld. Sr. DR

सुनवाईकी तारीख/Date of Hearing : **08/09/2025**

घोषणाकी तारीख/Date of Pronouncement : **03/11/2025**

आदेश/Order

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2020-21, 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 04.07.2025, which in turn arises out of an order passed by the Assessing Officer u/s 147 of the Act, on 06.03.2025.

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

"1. The Ld. CIT(A) erred in not adjudicating the addition of Rs.1,25,000 made under section 69, based on a third-party ledger lacking any reference to the assessee, without



independent corroboration, ignoring the possibility of fabrication, and contrary to valuation accepted by the Stamp Valuation Authority.

2.The Ld. CIT(A) erred in not adjudicating the addition made without any evidence of additional source of income to justify the alleged unexplained investment.

3.The Ld. CIT(A) erred in confirming the addition based merely on assumptions and suspicion, without any conclusive evidence to establish the genuineness of the document relied upon.

4.The Ld. CIT(A) erred in not appreciating that the addition was made without affording the assessee sufficient opportunity of hearing and without allowing cross-examination of the person whose statement was relied upon.

5.The Ld. CIT(A) erred in dismissing the appeal without considering that the assessment order is arbitrary, illegal, and in violation of principles of natural justice.

6.Without prejudice, the assessee reserves the right to add, amend, OR withdraw any ground of appeal before or at the time of hearing.

3. Succinctly, the factual panorama of the case is that assessee before us is an Individual. During the A.Y. 2020-21, the assessee has not filed the return of income (ROI). A search and seizure operation was conducted u/s 132 of the Act on Suchariya Group (residence of Shri Hari Singh Sucharia), certain incriminating documents containing details of cash transactions of the project "Pragati Shopping Centre" were found and seized. These ledgers contained individual ledgers showing cash on money receipt by the builder. The Ledger in name of assessee found making clear and evident that the assessee has made cash payments to the tune of Rs. 1,25,000/-, in order to acquire FF (First floor) Unit/shop No. 135 of Pragati Shopping center. The above information was passed on to assessing officer. Based on the above mentioned information, the case of the assessee was reopened u/s 147 of the Act and notice u/s148 of the Income-tax Act. 1961 was issued. The assessee filed return in response to notice u/s.148 on 17/04/2024 with total income of Rs. 2,42,120/-. During the course of assessment proceedings, the assessee failed to explain the source of the



‘on-money’ payment of Rs.1,25,000/-. Therefore, assessing officer treated this unaccounted on-money payment of Rs.1,25,000/- as unexplained investment u/s section 69 of the Act.

4. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the Ld. CIT(A) who has confirmed the action of the Assessing Officer, therefore, assessee is in appeal before this Tribunal.

5. 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 Ld CIT(A) and other materials brought on record. The small issue before me is that on-money payment of Rs.1,25,000/-, was treated by the assessing officer, as unexplained investment u/s section 69 of the Act. Learned Counsel for the assessee, argued that the seized material, which is relied upon by the AO is the dumb documents and there is no reliability, hence no addition should be made in the hands of the assessee. The Ld. Counsel also argued that considering the smallness of the addition made by the Assessing Officer, that is, the addition on account of cash ‘on-money’ to the tune of Rs. 1,25,000/-, therefore, the profit element of the ‘on-money’ may be added in the hands of the assessee. For that Ld. Counsel for the assessee relied on the judgment of the Jurisdictional High Court of Gujarat in the case of **CIT vs. President Industries 258 ITR 654 (Gujarat)**, wherein it was held that the profit element of the ‘on-money’ may be added in the hands of the assessee. 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.



6. I have considered submissions of both the parties. I note that addition made by the Assessing Officer in the assessee's case under consideration is only to the tune of Rs. 1,25,000/-. This addition is on account of 'on-money' payment in respect of the project/shop/office No. FF-135 in the project of Pragati Shopping Center. I find merit in the submissions of the Ld. Counsel for the assessee that profit embedded in the on-money should be taxed. Accordingly, I direct the Assessing Officer to make addition in the hands of the assessee to the tune of Rs. 37,500/- (30% of Rs. 1,25,000/-). Therefore, assessee's appeal is partly allowed.

7. Before parting, I make it clear that assessee has paid 'on-money' of Rs. 1,25,000/- out of his own sources, therefore, it should not be taxable under Section 69 r.w.s. 115BBE of the Act, hence, I direct the Assessing Officer to tax Rs. 37,500/- in the hands of the assessee, by applying the normal income tax rate.

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

Order pronounced in the open court on 03/11/2025.

**Sd/-
(Dr. Arjun Lal Saini)
Accountant Member**

Rajkot

(True Copy)

दिनांक/ Date: 03/11/2025

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