



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No.439 & 440/RJT/2025

Assessment Year: (2015-16 to 2016-17)

Shri Yogesh Rameshbhai Timbadiya At. Nikava, Tal.-Kalavad, Dist.- Jamnagar-361162	Vs.	The ITO Ward-2(6), Aayakar Bhavan, P N Marg, Jamnagar-361001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ALMPT1629B		
(Appellant)		(Respondent)

Appellant by : Shri Mehul Ranpura, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 08/10/2025
Date of Pronouncement : 05/11/2025

आदेश/ ORDER

Per, Dinesh Mohan Sinha, JM:

Captioned these two appeals filed by the same assessee, pertaining to different Assessment Years (AYs)-2015-16 to 2016-17, are directed against the separate orders passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide both order dated 29.05.2025, which in turn separate assessment orders passed by Income Tax Department / Assessing Officer under section 147 r.w.s. 144 and 144B of the Income Tax Act, 1961 (in short “the Act”), vide both order dated 30.05.2023.

2. The Grounds of appeals (ITA 439 & 440/Rjt/2025 for AY 2015-16 and 2016017) raised by the assessee, are as follows:

1. *The grounds of appeal mentioned hereunder are without prejudice to one another.*



2. The Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as the "CIT(A)"] erred on facts as also in law in dismissing the appeal ex-parte.

3. The Ld. CIT(A) erred in not deciding the ground of appeal related to validity of notice issued u/s 148 of the Income tax Act, 1961. That on facts as also in law, initiation of action u/s. 147 of the Act is invalid and assessment made on such invalid initiation deserves to be quashed and may kindly be quashed.

4. The Id. CIT(A) erred on facts as also in law in confirming addition made by AO of Rs. 69,30,700/- on the alleged that the appellant failed to explain source of cash deposits in bank account held with ICICI Bank alongwith necessary supporting evidence. The addition confirmed is unjustified and uncalled for, which deserves to be deleted, may kindly be deleted.

5. Your Honour's appellant craves leave to add, to amend, alter or withdraw any or more grounds of appeal on or before the hearing of appeal."

3. Brief facts of these case are that the assessee has filed his ITR for the assessment year 2016-17 at income of Rs 26.400/- and the same do not match the amount of credits in Bank at Rs.69.30.700/- during the F.Y 2015-16. A notice u/s 142(1) dated 20.01.2023 and subsequent notices issued calling for the requisite details were issued, however the assessee made his part submission alongwith Bank statement, computation of income. Balance sheet. P&L account, cash deposit details. submission filed before the Investigation wing. On perusal of the details/information/documents filed by assessee it was found that it was a part reply and assessee was not able to substantiate cash deposits of Rs.69.30.700/- in his account (ICICI) with supporting documentary evidences. The assessee has claimed that the bank account has been used by his brother in law Mr. Kalpesh M. Shivani, however, assessee has failed to establish that Kalpesh M Shivani has declared the income earned from transactions made through his bank account of assessee in his Income tax Return. The assessee has not made any complaint with the bank or filed any FIR for misuse of his bank account. It is not established as to why the assessee allowed his relative to use the bank account for years together. Also, assessee has allowed third person/his relative to use his debit card for withdrawals or gave signed Cheque to third person to make repeated withdrawals. In the ITR



filed, the assessee has declared only bank account with Union Bank of India A/c No. 350302010010648 and has not disclosed the Account with ICICI Bank. The assessee is relying on the affidavit of Sh. Kalpesh M. Siyani accepting the use of bank by him, however, the assessee has failed to establish the genuineness of deposit in his bank account by his relative. The assessee has Mere filed affidavit by Kalpesh M. Siyani, assessee's relative, however, assessee has failed to establish that the income earned on business transactions in credits with bank has been declared by his relative in his ITR filed. The credits made in Bank account by the assessee do not match the income profile. The assessee has submitted that Mr. Kalpesh M. Shiyani, his brother in law who has expired on 10.1.2022. The assessee has filed ITR, PL& Account of Mr. Kalpesh M. Shiyani. On perusal it is seen that Mr. Kalpesh M. Shiyani has declared Job work income of Rs. 5,98,734/-, net income of Rs. 3,13,131/- paying No tax. Mr. Kalpesh M. Shiyani has declared only one bank account no. 912010061963657 with Axis Bank in balance sheet. Therefore, the bank account with ICICI bank has not been declared in ITR by either the assessee or his relative.

4. In view of the above facts, the assessee has failed to convincible establish, with supporting document that the credits in his bank account with ICICI Bank do not pertain to him. Thus, the assessee has failed to substantiate the source of credits in his bank account. Therefore, it is established that assessee has no explanation to offer to the financial transactions made in his bank account.

Sl. No.	Description	Amount (in INR)
1.	Income as per Return of Income filed	Rs.26,404/-
2.	Income as computed u/s143(1)(a)	Rs.26,404/-
3.	Variation in respect of issue of Cash Deposit	Rs.69,30,700/-
4.	Total Income/Loss determined as per the above proposal	Rs.69,57,104/-



5. The assessee filed these appeals against the order dated 30.05.2023 of before the Ld.CIT(A), which was dismissed by the Ld.CIT(A), with following remarks:

“6.5 In the present proceedings before me, the appellant despite ample opportunities given, failed to make any further submissions or to rebut the findings of the A.O. In the absence of any substantiation or any documentary evidence filed in support of grounds of appeal, it can only be concluded that the appellant has no evidence or explanation to offer in respect of the cash deposits in his bank account. Hence there is no cause to interfere with the addition made by the A.O u/s 69A. Accordingly, being thus found to be without substance, all the grounds of appeal are dismissed.

7. In the result, the appeal is dismissed.”

6. That the assessee challenged the legality and validity of the impugned both the orders dated 29.05.2025 and filed an appeal before us.

7. During the course of hearing, the Ld. AR of the assessee submitted that the assessee is non-educated villager residing at Nikava Village and running small job work and not having taxable income. That the Ld. AR prayed to one more opportunity may kindly be given to the assessee to explain the case before the Lower Authority.

8. On the contrary, the Ld. Sr. DR for the revenue and relied on the order of the Ld.CIT(A). However, Ld. Sr. DR has not objected to the prayer of the assessee.

9. We have heard both the parties and perused the material available on record. We note that Ld. CIT(A) issued five notices of hearing to the assessee but there was no compliance by the assessee. The Ld.CIT(A) considering the non-compliance by the appellant, if not interested in pursuing appeal. We further perused the record, we note that before the assessment order was passed ex-parte u/s. 144 of the Act. We are of the view that in the interest of justice one more opportunity should be given to the assessee to present his case before lower authority and remand the matter back to the file of the Ld. CIT(A) for



fresh adjudication on merits. After giving due opportunity to the assessee and the assessee is further directed to comply with the notices and submit all the as and when called for by the Ld. CIT(A).

ITA No.440/Rjt/2025 for AY-2015-16:

10. In ITA 440/Rjt/2025 for AY-2015-16, facts and issue are similar, hence, the same is disposed off, in above terms.

11. In the result, these both appeals (*ITA 439 & 440/Rjt/2025 for AYs-2015-16 and 2016-17*) of the same assessee are allowed, for statistical purposes.

Order is pronounced in the open court on 05/11/2025.

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

**Sd/-
(Dinesh Mohan Sinha)
Judicial Member**

Rajkot

दिनांक/ Date: 05/11/2025

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