



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No.271/RJT/2023

निर्धारणवर्ष / Assessment Year: (2007-08)

(Hybrid Hearing)

Shri Pragjibhai Parsotambhai Tala Maruti, Nr. Sitaram Chhatralaya, 1- Harinagar, Rajkot-360001 Gujarat	Vs.	The Income-tax Office, Ward- 1(1)(5), Rajkot Aayakar Bhavan, Racecourse Ring Road, Rajkot-360001 Gujarat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAOPT1813C		
(Appellant)		(Respondent)

Appellant by : Shri Mehul Ranpura, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav Ld. SR. DR
Date of Hearing : **09 / 12 /2025**
Date of Pronouncement : **11 / 12 /2025**

आदेश / ORDER

PER DINESH MOHAN SINHA JM;

Captioned appeal filed by assessee pertaining to Assessment Year 2007-08, is directed against order passed under section 250 of the Income Tax Act, 1961 by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income Tax (Appeals), dated 28/06/2023, which in turn arises out of an order passed by the Assessing Officer u/s 143(3) r.w.s. 147 of the I.T. Act, on dated 16/03/2015.



2. The Grounds of appeal 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 as to the "CIT(A)") erred on facts as also in law in rejecting the ground of appeal related to validity of reopening of assessment. That on facts as also in law, proceedings-initiated u/s. 147 of the Act is invalid and assessment finalized on such invalid initiation is deserves to be quashed and the same may kindly be quashed.*
- 3. The Id. CIT(A) erred on facts as also in law in confirming addition of Rs.13,32,000/- on account of alleged unexplained cash deposits in the bank account held with The Co-operative Bank of Rajkot Ltd. The addition confirmed is unjustified and uncalled for, which may kindly be deleted.*
- 4. 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. Facts of the Case

1. The appellant, an individual is assessed to tax by the Income Tax Officer, Ward 1(1)(5) Rajkot He is engaged in the business of construction. The appellant filed his return of income of 99,549/- u/s 139(1) of the Income Tax Act 1961 on 1308 2007 and the said return of income was processed u/s 143(1) of the Income Tax Act, 1961 that based on some raw information regarding transactions of 13,32,000/- in the Co-operative Bank of Rajkot Ltd. the AO for the purpose of verification, re-opened the case and issued notice under section 148 of the Act dated 14.032014



and the appellant vide letter dated 09.02.2015 submitted to treat the return of income filed under section 139(1) as the return of income filed in compliance with such notice. The AO, vide order u/s 143(3) r.w.s. 147 of the Act dated 16.03.2015 assessed the total income at 14,31,549/-, wherein he alleged that the appellant's cash deposits of 13,32,000/- into his bank account is not satisfactorily explained with supporting evidences and the genuineness of the cash transactions and added the same to the returned income as escaped income."

4. That the assessee filed an appeal against the order of assessment before Ld. CIT(A) dated on 28/06/2023, which was dismissed by the Ld. CIT(A) on 28.06.2023
5. That the assessee filed an appeal against the impugned order dated 26.07.2023 before this Tribunal.

i). The Ld. AR Submitted that an addition was made of Rs. 13,32,000/- on account of unexplained cash deposit. However, the assessee is a contractor and regularly made deposit and withdrawing money from the Bank and this amount of Rs. 13,32,000/- has been taken into consideration at a time of computation in income.

ii). On the contrary the Ld. DR. said that the assessment was re-open to verify the transaction of Rs. 13,32,000/- the AO has rightly make an addition was rightly confirmed by CIT(A).



6. We have heard both the parties and perused the material available on record and also perused the paper book submitted before us. We note that the assessee has filed return of income. We note that the assessee has declaring income of Rs. 1,34,617/- during the assessment proceedings the assessee has submitted the replay to notice about the detail of deposit with Bank and also submitted the copy of return of income. The assessee is regularly assessed to income-tax and his business income from construction has been accepted by the AO. during the assessment proceedings the assessee has submitted that case is reopened on the alleged ground of cash deposit into saving account maintained with the Co-operative bank of Rajkot Ltd. in excess of 10 lacs. In response to letter No ITO/1(3)/CIB.INF./2011-12 dated 12.03.2012 I have categorically mentioned that the transactions were duly recorded in the books of account. As the reasons recorded for re-opening of an assessment is erroneous due to the fact that transactions made in the saving bank account held with the Co-operative Bank of Rajkot Ltd. is duly recorded in the books of account. Therefore, re-assessment proceedings are bad in law. Regarding source of amount deposited into the saving bank account held with the Co-operative Bank of Rajkot Ltd. it is submitted that I am engaged in the business of Building construction and structural design work and received gross amount of ₹ 22,86,564/- from various persons and the same were deposited into bank account. So far as I understand no books of account is required to be maintained if the gross contract receipt is below 40 lacs provided profit @ of 8% is offered to tax. I voluntarily state and confirm that by virtue of provisions of Sec. 44AD my net income from the construction activity comes to ₹ 1,82,925/- Thus, I have no objection if my business income is worked out to 1,82,925/-

7. We also find that the assessing officer, had not specifically identified any specific defects in the purported evidences and has not held that this



evidence filed by the assessee are bogus. No contrary evidence is available on record. We find some merit in the argument advanced by Ld. Counsel for the assessee. that the addition was confirmed by Ld. CIT(A) on account of cash deposit with the Bank. However, the claim of the assessee being contractor and the cash deposit is out of contact receipt from business. The Ld. AO has acknowledged in the assessment order that the assessee is a contractor. In our opinion to meet with the end of justice if the income of the assessee ascertained @10% on the cash deposit in the Bank amounting to Rs. 13,32,000/- for A.Y. 2007-08. Therefore, to safe guard the leakage of revenue, we direct the assessing officer to make addition @ of 10% on amount of Rs. 13,32,000/-, in the hands of assessee for the relevant A.Y-2007-08, which comes to Rs. 1,33,200/-. We hereby make it clear that since the assessee has explained the source of cash deposit, therefore, 10% addition of Rs. 1,33,200/- sustained by us, should be taxable under the normal rate of income-tax.

7. In the result, the assessee's appeal is partly allowed, in above terms.

Order pronounced in the open court on 11 / 12 /2025.

Sd/-

(Dr. A.L. SAINI)
ACCOUNT MEMBER

Sd/-

(DINESH MOHAN SINHA)
JUDICAL MEMBER

Rajkot

दिनांक/ Date: 11 / 12 /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