



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. 306 & 307/RJT/2023

(निर्धारणवर्ष / Assessment Year: (2010-11 & 2011-12)

(Hybrid Hearing)

Kanaiyalal Hemendra Vyas Sudhrai Colony, Station Road, Nr. Railway Station, Dhoraji (Guj) - 360410	Vs.	The Income Tax Officer, wd – 2(2)(1), Aayakar Bhavan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AKYPV3966G		
(Appellant)		(Respondent)

Appellant by : Shri Vimal Desai, Ld. AR

Respondent by : Shri Abhimanyu Singh Yadav, Ld. CIT(DR)

Date of Hearing : 25/09/2025

Date of Pronouncement : 18/12/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned these two appeals filed by the same assessee, pertaining to different Assessment Years 2010-11 & 2011-12, are directed against the separate orders passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), National Faceless Appeal Centre (NFAC)-Delhi, Commissioner of Income-tax (Appeal), dated 29.06.2023, which in turn arises out of an order passed by the Assessing Officer, u/s 143(3) r.w.s. 147 of the Act, on 28.12.2017.

2. Since, the issues involved in these two appeals are common and identical; therefore, these appeals have been heard together and a consolidated order are being passed for the sake of convenience, we shall take the lead case in



ITA No.306/Rjt/2023 for Assessment Year 2010-11 filed by the assessee for deciding these two appeals *en-masse*

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

1. The re-opening of assessment u/s. 147 and the consequential re-assessment order u/s. 143(3) rws 147 is bad in law.

2. The learned A.O. has erred in law as well as on facts in making addition of Rs. 83,72,533/- in respect of cash deposited in bank account by considering it as income from alleged unaccounted and unexplained source of money u/s. 69B of the Act and the learned CIT(A), NFAC, Delhi has erred in confirming it.

4. Brief facts of the case that the appellant is an individual, carrying on business of Trading of agriculture commodities such as onion, wheat, garlic, etc., in his own name kanaiyalal hemendrabhai vyas. The appellant was maintaining books of accounts of Trading Business. The appellant had filed his return of income declaring his business income of Rs.2,51,530/- on 25.09.2010 for AY 2010-11. The assessee has filed Return of Income declaring total income of Rs.2,51,530/- on 25.09.2010. The accounts were duly audited and audit report and income tax returns were also filed. The appellant was maintaining three banking accounts as under:

1. Current A/c No. 030805003536 with ICICI Bank, Junagadh Branch.
2. SB A/c No.02311930003509 with HDFC Bank, Junagadh Branch.
3. SB A/c No.05651930002590 with HDFC Bank, Junagadh Branch.

5. That the case was reopened and notice was issued under section 147 on 27.03.2017. in response to the notice, the assessee submitted written submissions alongwith other documents, such as, Bank Account, Audit Report purchase and sales book. Since nature of business of the assessee is such that most of the transactions took place in cash during the relevant period. (A.Y.2010-11).



6. The assessee has filed reply stating that the assessee engaged in the business of trading of agriculture commodities such as onion, wheat, garlic. The transactions in this type of commodities generally occur in cash only. The amount of cash deposited is generated in the course of my business. Further, submits that the assessee has got his alleged books audited u/s 44AB of the Act and has also filed return of income for A.Y 2010-11 within due date on 25.09.2010 declaring total income of Rs.251530/-The assessee has produced sales bill books and purchase details. On verification, the Ld.CIT(A) noticed that the name of party to whom goods is sold or purchased are incomplete, there are no complete address, only name of the city/town are mentioned, bills issued are not in order, quantity sold or purchased are not mentioned, only amount of sale or purchase value are mentioned. This fact was brought to the notice of the A.R of the assessee vide order sheet dtd./12/2017. The A.R was also asked to submit complete name, address, quantity sold/purchase details to file/submit latest by 26.12.2017, failure to submit the required information will entail into addition of Rs.8372533/- by treating the amount as unaccounted and unexplained source of money u/s 69B of the Act. The learned Assessing Officer has made addition of Total Credit Entries of the above three accounts amounting to Rs.83,72,533/-, although the appellant had produced Audit Report, Sales Bills, Purchase Vouchers/Bills, Transport Bills, etc. Moreover, return of income and audit report were also filed within statutory due dates. In computing the total income of the appellant, the Assessing Officer has made an addition of Rupees 83,72,533/- as income from undisclosed and unexplained source of money u/s 69B of the Act for A.Y.2010-11.



7. That the assessee filed the appeals against the order dated 28.12.2017. In the office of the Ld. CIT(A), Rajkot. That the Ld.CIT(A) has dismissed the appeals of the assessee with following observation:

“2.3 Having considered the appellant submission and facts of the case, specially that the appellant never retracted his statement u/s 131, I find no any incongruity in the Assessment order and therefore this addition is confirmed.

3. In sum appeal is dismissed.”

8. That the assessee filed the appeals against the impugned orders dated 29.06.2023 before the Tribunal.

9. During the course of hearing, the Ld. AR of the assessee submitted that the reopening of assessment is bad in law, the assessee is a trader of agricultural products, and maintained Books of account and Books are audited by CA, and Bank Account, sales/purchase bill etc., were submitted during the assessment proceedings. That the assessee shown products amounted of Rs. 83,72,533/- in the Return of Income.

10. On the contrary, the Ld. Sr. DR for the revenue relied on the order of the Ld.CIT(A) and also stated that the bank account are different placed so there are not relatable between the business. The assessee has claimed the assessee is commission agent in the statement given to the department in a proceedings u/s. 131 of the Act.

11. We have heard both the parties and perused the documents available on record. We note that the assessing officer, the assessee claimed to have been a trader and agricultural commodities such as onion, wheat and garlic, and the amount of cash generated in the course of business. We note that the assessee maintained following books of account are audited. That the



assessee has produced sale book, purchase details but name of the party to whom goods is sold or purchased is incomplete, there are no complete address, only name of the city/town are mentioned, the AO made entire cash deposited as an addition in income as unexplained source of money u/s. 69B of the Act. We note that the statement recorded by the department u/s. 131, where assessee admitted to be a commission agent therefore, the assessee is a trader or commission agent, that is, nature of activities has not been ascertained by agricultural activities. The assessee also claimed that the assessee is selling the goods it means he is trader. The assessee filed written submission stating that the cash gross receipts deposited in bank, can by no stretch of imagination be treated as income of the assessee. The cash deposited out of wholesale Trading in Agricultural products business and as such the deduction on account of goods purchase, direct and indirect expenditure must be allowed to the assessee or not certain because no documents related to above expenditure are available before Bench. The aspect whether the assessee is a trader or commission agent has not been examined by the AO and the AO also no examined the complete books of account of the assessee, we find that reopening of assessment was according to law, hence, assessee is not entitled to get relief on this technical ground. We are of the view that the assessee deserves for an opportunity to explain the case before the lower authorities. We direct the assessee to submit all the documents along with details of transaction, wherein name, address and quantity were duly specified. The assessee is also directed to submit complete name and address of its customers. In the above facts and circumstances of the case, and in the interest of justice, we set aside the order of Ld. CIT(A) and remit the matter back to the file of Ld. AO for fresh adjudication on merit.



ITA No. 307/Rjt/2023 for AY 2011-12:

12. The similar issue and facts involved in the appeal filed by the assessee is disposed of in the same term, in accordance with law.

13. In the result, these two appeals of the assessee (In ITA 306 & 307/Rjt/2023 for AY 2010-11 and 2011-12) are allowed, for statistical purposes, in above terms.

Order pronounced in the open court on 18-12-2025.

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

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

Rajkot

//True Copy//

दिनांक/ Date: 18/12/2025

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